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Legal Aspects of State-Wide Teacher Retirement Laws

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REPORT

The purpose of this study is to discover those guiding principles which have been followed throughout the period of organized state-wide retirement systems. A brief summarized history of retirement in the United States serves as a background. It is the intention of the writer to learn the theories held by the members of the National Education Association. The writer also desires to know how the above theories were put in actual practice. From this study an attempt is made to determine the principles which should be incorporated into the retirement laws of a state in order to make the state retirement system as nearly ideal as possible from the point of view of the teacher and the public.

By
Edward C. Baldwin

Teacher retirement, from the beginning, has been and is a large subject still in its developmental stage. Many plans and laws have been passed in recent years to be changed, thus making investigation with careful historical forecasting, necessary.

The writer acknowledges his indebtedness to the departments of education in the states having permanent state-wide retirement laws, whose prompt assistance greatly facilitated the completion of this study. The contributions of the Bureau of Education at Washington D. C., and The National Education Association have been exceedingly helpful in the interpretation of the retirement laws of the various states. The author is also indebted to Dr. Albert Allen, Dr. Ross Carlin, and Dr. W. L. Richardson of Butler University, for their suggestions.

A Dissertation Submitted in Partial Fulfillment
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PREFACE

The purpose of this study is to discover those guiding principles which have been followed throughout the period of organized state-wide retirement systems. A brief summarized history of retirement in the United States serves as a background. It is the intention of the writer to learn the theories held by authorities concerning five common fundamental retirement principles that are laid down by the committee on retirement of the National Education Association. The writer also desires to know how the above theories work out in actual practice. From this study an attempt is made to determine what principles should be incorporated into the retirement laws of a state in order to make the state retirement system as nearly ideal as possible from the standpoint of both the teacher and the public.

Teacher retirement, from the beginning, has been, and to a large extent still is in the experimental stage. Many state and local systems have been found in recent years to be unsound; thus making reorganization with careful actuarial forecasting, necessary.

The writer acknowledges his indebtedness to the departments of education in the states having permanent state-wide retirement laws, whose prompt assistance greatly facilitated the completion of this study. The contributions of the Bureau of Education at Washington D. C., and The National Education Association have been exceedingly helpful in the interpretation of the retirement laws of the various states. The author is also indebted to Dr. Albert Mock, Dr. Amos Carlile, and Dr. W. L. Richardson of Butler University, for their sympathetic and kindly criticism, which has inspired whatever degree of quality the work may possess.

E. C. B.

St. Paul,
Indiana,
1936

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The study divides itself into three major divisions:

1. A description of the retirement laws of the states having state retirement systems to determine the basic features that are common to all of them.

2. A study of the court decisions in these states to determine the grounds of interpretation which are being relied upon with regard to basic legal questions.

3. A study of the effects of the depression upon state teacher retirement, by summarizing retirement activities and legislation, among the various states, through the period between 1929 and 1934.

LEGAL ASPECTS OF STATE-WIDE TEACHER RETIREMENT LAWS

CHAPTER I

INTRODUCTION

The Problem

The purpose of this study is to discover those guiding principles which have been followed by the legislatures and courts in the states having state-wide systems, with especial emphasis upon those legal features of existing retirement systems which have tended to make sound systems.

The study divides itself into three major activities:

1. An examination of the retirement laws of the states having state retirement enactments to determine the basic features that are common to all of them.
2. A study of the court decisions in those states to determine the trends of interpretation which are being followed with regard to basic legal questions.
3. A study of the effects of the depression upon state teacher retirement, by summarizing retirement activities and legislation, among the various states, through the period between 1929 and 1936.

The writer hopes, through this study, to clarify somewhat the historical background of teacher retirement; to analyze the fundamental provisions of existing systems so that their provisions may be compared; and lastly, to show present trends as reflected by retirement legislation through the depression since 1929.

Delimitation of the Problem

This study is confined to the states of the United States that have state-wide teacher retirement systems. Local independent systems, the retirement system of the District of Columbia, and the systems in operation in United States Territories and possessions are not included in this study.

Definition of Terms

A pension is a stated and certain allowance granted by the government to an individual, or to those who represent him, for valuable services performed by him for the country. It includes any half-pay, compensation, superannuation, or retirement allowance or other payment of like nature, made in the retirement of any officer.¹ A pension is a gratuity consisting of payments made to the pensioner at regular intervals. It does not involve contributions by the persons to whom it is paid but consists of payments for life derived

1

Harry Raymond Trusler, Essentials of School Law, p. 26, Milwaukee: Bruce Pub. Co., 1927.

from money provided by the state. An annuity differs from a pension in that it consists of payments for life derived from the accumulated contributions of a member of a retirement system. A retirement allowance is the sum of the annuity and the pension, or any optional benefit payable in lieu thereof.

Retirement means withdrawal from service with a retirement allowance granted under the provisions of legislative enactments. Existing state-wide retirement systems in the United States for the most part have retirement funds built up for each teacher by the state and teacher jointly, the state's contribution being in the form of a pension, combined with stipulated contributions of teachers. Arizona and Rhode Island are the only states having state-wide retirement systems that have pure pensions given by the state to teachers. All of the other systems are contributory. The plan under which both teacher and state contribute to the retirement fund is known as a contributory plan. Under the contributory plan the money received by the teacher is in no sense a gratuity. It provides part of the wages of employment by the cooperative investment of teacher and state to enable schools to have a more continuous body of teachers and to relieve the teachers from privation and hardship after their value to the school system has gone because of disability or old age. It is more in the nature of unemployment insurance. Strictly, it is a retirement annuity purchased jointly

by the teacher and the state. Both retirement systems and pension systems are discussed in this study, but more attention is given to the study of retirement systems because they are more in evidence in the United States than are pension systems.

Prior service as used in this discourse, means service rendered prior to the establishment of the retirement system.

Methods of Collecting Data

This study has been built upon an analysis of the laws and practices of those states having state-wide retirement systems. Letters were sent to the states having state-wide teachers' retirement systems in operation, requesting that the laws and any other data concerning the system in each state be mailed to the writer. A list of the states having state-wide teacher retirement systems and the names and addresses of the secretaries of the systems were furnished by the National Education Association. Laws and additional data, dealing with teacher retirement, were received from each of the states having state-wide teacher retirement.

Court decisions affecting teacher retirement were examined in several states where litigation has arisen. Opinions of educational and legal authorities were consulted.

Upon written request the officials of The Bureau of Education, and of The National Education Association at Washington, District of Columbia, furnished data concerning changes in teacher retirement in the United States since 1929. They also furnished data concerning legislative and other activities in the various states since 1929.

The Issues Involved

The movement to secure state teacher retirement, like the movements for state teacher tenure and state minimum wage laws, has experienced a slow and difficult advance. It has been opposed by legislators and the general public, and in the earlier stages by the boards of education. In recent years boards of education have learned to look upon teacher retirement as benefitting the state, and as a necessary state-aided enterprise. In view of recent retirement legislation, in New Mexico, Utah, and elsewhere as shown later in this study, it seems that legislators and the general public favor the extension of existing retirement principles.

Most of the debatable questions and disputed theories relating to teacher retirement deal with compulsory membership, financing the system, length of teaching service, disability benefits, withdrawals, and some questions depending upon judicial interpretations, such as authority of a school board to deduct a part of the teacher's salary as a membership fee in the retirement fund. Some of the leading questions

confronting students of teacher retirement systems are:

1. Should membership in the system be compulsory?
2. Should the retirement fund be financed wholly by teachers, by the state only, or by both teachers and the state?
3. How much of the burden of financing should be borne by the teacher, and how much by the state?
4. Should a teacher's contributions to the retirement fund be a certain percent of his salary or a flat rate?
5. At what age should a teacher retire?
6. What provisions should be made for disability of teachers?
7. May the teacher withdraw deposits made in the fund if for any reason he ceases to be a member?
8. May a school board legally deduct retirement fund membership fees from the salary of a teacher?
9. Should the actuarial reserve plan of financing be used with periodic actuarial investigation?
10. What are the limitations to retirement development because of constitutional restrictions?
11. Which is the better form of retirement system, local or state-wide?

School officials, teachers, and legislators agree pretty generally on many of the issues, but controversy is still arising over some of them. Various studies have been made in an attempt to arrive at some accepted conclusions with reference to the desirability of certain factors of a retirement system.

Perhaps the most complete study of the problems involved in teacher retirement has been made by the Committee of One Hundred of the National Education Association on Teacher Retirement Problems. The report of the committee, made in 1930, deals largely with the controversial issues involved in the subject. It also contains statements, from authorities on the subject, concerning the issues involved in theory and in practice.³

It is held by some tax authorities that the teacher always pays for his retirement under any plan, even under the straight pension plan. They maintain that the incidence of the tax finally falls upon the teacher, and that his salary is affected accordingly.⁴

History of The Movement

The problem of retirement has always been of much concern to the teaching profession. Teacher retirement activity in the United States may well be divided into three periods, comprising little more than half of a century: (1) 1869-1894; (2) 1895-1913; (3) 1914-1936.

The first of these periods was a time in which the leading role in retirement was played by teachers' mutual

3

National Education Association, Research Bulletin, Vol. VIII, No. 5, pp. 235-262. Washington. 1930.

4

Henry S. Pritchett, "Social Philosophy of Pensions", The Carnegie Foundation For The Advancement of Teaching, Bulletin No. 25 (1930) New York. p. 36.

benefit associations. Teachers contributed small sums to benefit funds, but benefits were financed largely by gifts and donations. The second period was one in which a large number of fairly sound local retirement systems was established in many cities and school districts throughout the country. It might be called the period of local retirement system expansion. The third or present period is the period of state-wide teacher retirement system development. Until about 1910 the attitude of the general public, and also that of the government was one of indifference. The general public, and the government began to take an active interest in retirement at the beginning of the last period, and intelligent cooperation between them and teachers has been developing.

New York City led the way in early annuity association development. Several large cities used New York's system as a pattern in organizing retirement systems. Most often they fixed annuities at six hundred dollars, required thirty to forty years of service, (five years less for women than for men), and annual dues of one percent of salary. The majority of members of the early systems were older teachers. In case of resignation, dismissal or death, teachers forfeited the amounts contributed. The objection to refunding money to them was that it was said that interests of those dismissed deserved less consideration than the interests of the profession as a

whole. This view of the matter was a carry-over from Europe
 5
 of the Tontine principle.

Most of the voluntary annuity associations organized from 1887 to 1900 were unsuccessful, and either had to be abandoned entirely, or reorganized. These failures were largely due to promoters' becoming tired of endless campaigns for new members, absence of government support, inadequate support by public donations, and actuarial unsoundness. Some of the unsound features of early systems were:

1. No mortality rates were adopted.
2. No attempts were made to determine the cost of retirement benefits.
3. Reserves to meet future obligations were inadequate.

It later became evident that the governments of the different states should help pay for teacher retirement, because of the increased efficiency in the schools, through retirement of older teachers and engaging of others more up to date. There has been a steady growth toward uniformity and consolidation of pension systems especially marked since 1913. By 1917 twenty-two state-wide, and seventy-two local pension systems were in existence. There has been a constant tendency toward state-

5

By Tontine principle is meant an annuity shared among a number of individuals, or a loan raised on life annuities. Upon the death of each beneficiary of the annuity his share is enjoyed by the survivors.

During that period, five of these states made laws

wide systems; however, New York City, Chicago, Baltimore, and many of the larger cities probably will continue to maintain individual systems separate from the state-wide systems. A few smaller cities still maintain systems independent of the state systems; Terre Haute, Indiana is an example. Local systems are being gradually absorbed by state-wide systems largely because of the following reasons:

1. In order that teachers may shift positions within a state without forfeiture of pension rights.
2. Scientific management.
3. Increased soundness because of larger membership, and in general, wider uniformity in application of principles of the system.

New Jersey was the first state to enact provisions for a state-wide retirement system for teachers in 1896. At present legislative provisions for state-wide pension systems for teachers are found in twenty-five states, and systems similar in extent exist in Alaska, Hawaii, Phillippine Islands, Puerto Rico, and The District of Columbia. Table I in Chapter II shows the present scope of teacher retirement--states having it, and also the date of enactment for each system. During the decade between 1911 and 1920 teacher pension legislation of state-wide application was most prolific. Eighteen state legislatures enacted provisions for teacher retirement systems during that period. Five of these states enacted such legis-

lation in 1913, and seven in 1915. Many of these state systems have been revised recently to such an extent as to amount to new systems. Examples of such revision are found in Wisconsin, New York, and Indiana in 1921; and California in 1935. Michigan, Virginia, and others are contemplating revision in the near future. Minnesota's system was replaced by a new one in 1931.

The history of state-wide teacher retirement systems shows that their development required long and hard struggles. Their creation, as a rule, followed the breakdown of local systems. States which have established state-wide systems rarely consider their abandonment or the establishment of local systems.⁶ It is now generally believed that the state is the best agency for providing economy and security with regard to the retirement of teachers.⁷ This belief is founded upon theory and practice. The state is a desirable agency in that it offers, first, opportunity for teacher exchanges between districts and cities without the loss of retirement benefits, and, secondly, it enables more efficient and economical administration of the system as a whole throughout the state. Exceptions may exist in the case of large cities like Chicago, Baltimore, and others.

6

In 1929 Idaho abandoned its state-wide teacher retirement system established in 1921.

7

Paul Studensky, Teachers' Pension Systems In the United States, p. 32, New York: D. Appleton & Co., 1920.

A study of the history of teacher retirement shows that in order to solve the problems involved in maintaining a safe and sound teacher retirement system, cooperation of many professions is necessary. The actuary who establishes and helps maintain the retirement system on a sure financial basis, the lawyer who prepares the statutes creating the system, and the administrator who guides its operations from day to day are each important; but more important than any of these are the teachers themselves. If the teachers in a state understand the real nature of a retirement system and fully recognize its great importance in the total educational program, it is ultimately certain to succeed.

The three periods of teacher retirement development may be summarized as follows: The period 1869-1894 may be characterized as a period of teachers' mutual benefit associations; the period 1895 to 1913 as a period of local retirement system expansion; and the period from 1914 to the present time as a period of state-wide teacher retirement system development. Will the next period of teacher retirement development be one marked by a stronger tendency toward uniformity of state-wide systems, or will there be a combination of state-wide systems to form a national system of teacher retirement? Some facts

are disclosed in later chapters, which give some light on this question, and these facts form the basis for the answer given to the question in the concluding chapter of this dissertation.

STATUS OF EXISTING TEACHER RETIREMENT LAWS

In view of the limitation of the problem previously stated, the purport of this study is confined to a consideration of those states which have some form of permanent teacher retirement law by state legislative enactment and applying to teachers throughout the state. There are, however, some states which have passed laws providing for permanent retirement of teachers. It is significant to note that only one of these systems has been established. In spite of the fact that efforts have been made repeatedly in some states to bring existing systems to the point of permanent retirement, the constitutionality of different forms of retirement laws has been attacked. Improvements have been made in existing laws from time to time through legislative enactment when experience showed that changes to be necessary. State systems have not extended in form of local systems, but as shown in Chapter 2 of this study, local systems have been absorbed to a large extent by state systems.

CHAPTER II

SCOPE OF EXISTING STATE-WIDE TEACHER RETIREMENT LAWS

In view of the limitation of the problem previously stated the perspective of this study is narrowed to a consideration of those states which have some form of permanent teacher retirement law by state legislative enactment and applying to teachers throughout the state. Since 1896, twenty-six states have passed laws providing for permanent retirement of teachers. It is significant to note that only one of these systems has been abandoned¹ in spite of the fact that efforts have been made repeatedly in some states to bring existing systems to an end. In many states the constitutionality of different phases of retirement laws has been attacked. Improvements have been made in existing laws from time to time through legislative enactments when experience showed such changes to be necessary. State systems have not succumbed in favor of local systems; but as shown in Chapter I of this study, local systems have been absorbed to a large extent by state systems.

¹

Loc. Cit. (p. 11, See footnote No. 6)

Table I gives the list of the states that have enacted state-wide retirement legislation and the year in which it was enacted.

TABLE I. THE STATES WHICH HAVE STATE-WIDE TEACHER RETIREMENT LAWS AND THE YEARS IN WHICH THEY WERE ENACTED

State	Year of Enactment	State	Year of Enactment
New Jersey	1896	Indiana	1915
Rhode Island	1907	Michigan	1915
Maryland	1908	Minnesota	1915
Virginia	1908	Montana	1915
New York	1911	Nevada	1915
Wisconsin	1911	Connecticut	1917
Arizona	1912	Pennsylvania	1917
California	1913	Ohio	1920
Maine	1913	Kentucky*	1928
Massachusetts	1913	Washington	1923
North Dakota	1913	New Mexico*	1933
Vermont	1913	Utah*	1935
Illinois	1915		

* Systems are provided for by legislative enactments, but the systems have not been put into operation.

From the data presented in Table I it is noteworthy that only two states have enacted state-wide laws providing for teacher retirement since 1928. New Mexico's legislature enacted such a system in 1933. Utah established a system in 1935. Neither system has yet been put into operation.

Kentucky's legislature passed a state-wide teacher retirement act in 1928, but as yet it is inoperative because of lack of funds. No state-wide system has been put into operation since 1923.

While it is apparent from the data presented in Table I that proponents of permanent state-wide teacher retirement systems have failed to establish such systems in all of the forty-eight states of the union, their efforts have unquestionably brought about a steady extension of its principles. The Committee of One Hundred on the Problem of Teacher Retirement of the National Education Association makes the following statement relative to the extension of sound retirement legislation:

The committee of one hundred has never had more serious problems to consider than at the present time. Reduced revenues for schools have thrown into relief many financial, administrative, and psychological problems relating to the retirement allowances for teachers. In some states the teachers are not enrolled in any joint-contributory retirement plan. Under present conditions they may not be able to provide for their security in old age. In some states, retirement systems that were already proven inadequate now influence public opinion against retirement systems in general. Even where systems have been operating on a sound basis, increasing pressure is being exerted to undermine their organization. Now is the time to reaffirm the Committee's statement of the fundamental principles of a teacher retirement system. Especially appropriate are the principles that recommend joint-support of retirement systems, reg-

²
National Education Association, Report of the Committee of One Hundred on Problems of Retirement, p. 2. Washington D. C. 1933.

ular accumulation of funds, maintenance of reserves, and return of accumulated deposits. . . In the light of present conditions the committee should supplement and reinforce the principles, by stating that:

1. The integrity of the retirement funds must be preserved.
2. Adjustments, even though temporary, in the administration of the retirement funds, should be based only upon expert advice and careful study.
3. Expert supervision should govern the investment and accounting of retirement funds.
4. Considerations of economy should not lead school systems to retire competent, experienced, higher-paid teachers involuntarily, immediately upon attaining the age for optional retirement.
5. School systems at present unable to adopt retirement provisions for their employees, should continue, nevertheless, to study the problem.

The geographical distribution of state-wide systems is of interest. New England is fairly well covered with representations in Maine, Vermont, Massachusetts, Rhode Island, and Connecticut while the more populous Atlantic states have also attempted to meet the problem with systems in New Jersey, New York State, Pennsylvania, and Virginia. The Midwest has six state-wide systems in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin; and likewise, the West and the Far West have six state-wide systems in Arizona, California, Montana, Nevada, North Dakota, and Washington. In the main, the South has not favored state provision for retirement of teachers, and has tended to depend upon local systems in ten states--Florida, Georgia, Kentucky, Mississippi,

North and South Carolina, Louisiana, Tennessee, Texas, and West Virginia--whether authorized by state enactment as in Georgia, Kentucky, and Louisiana, or not. The movement for teacher retirement systems, in many instances, parallels the modernizing of the state public school systems of the United States.³

The four states that now have state-wide teacher tenure laws, also have had good retirement systems for a number of years. These states are Maryland, California, New Jersey, and Massachusetts. It is noteworthy that New Jersey, the first state to enact a state-wide teacher retirement law, was also the first state to enact a state-wide teacher tenure law.

Contrary to what might be supposed, minimum salary schedules are not so common in states having state-wide teacher retirement systems, as are tenure enactments. The only states having teacher retirement systems that also have state-wide minimum salary schedules are Indiana Maryland, New York, and Pennsylvania; while several states Alabama, Delaware, Iowa, North Carolina, South Carolina, Tennessee, and West Virginia have minimum salary schedules, but do not have state retirement systems. Maryland is the only state that has state-wide

application of retirement, tenure, and minimum salary laws. Indiana shared this position with Maryland until the Indiana legislature repealed the state-wide tenure law in 1934.

In spite of the fact that state-wide pension systems have generally absorbed local systems within their domains, many of the larger cities of the country still find it expedient to maintain independent systems. Baltimore, Maryland for example, maintains a local system independent of the state-wide system. San Francisco, Chicago, New York City, Minneapolis, St. Paul, Detroit, and Boston are other examples. In Indiana, the city of Indianapolis joined the state-wide system in 1915. Terre Haute, Indiana maintains the only independent local retirement system in Indiana.

By way of summary for this chapter it may be said that the retirement movement has been primarily concerned with securing protection in old age for the class-room teacher. Many states, however, have extended the application of their laws to provide retirement benefits for other educational employees of the school corporation including clerks, superintendents, supervisors, and principals. State Retirement systems are well distributed throughout all sections of the United States with the exception of the Southern group of states .

CHAPTER III

PRINCIPAL PROVISIONS OF RETIREMENT LAWS

In Chapter II facts dealing with the scope of present teacher retirement laws have been considered. This chapter recounts an analysis of the features which seem to be most common to the retirement laws in the states having state-wide retirement systems.

In order to escape the charge of arbitrary selection of these common features, it has been deemed advisable to consult the list of principal provisions of retirement laws compiled by the Committee of One Hundred of the National Education Association.¹ It is to be borne in mind that the features listed below were not untied proposals or recommendations; they were the cardinal provisions of retirement laws actually in operation at the time the report was made in 1930, and at the present time, the fundamental status of the principles is unchanged. Since 1930 there has been little change in the trend of subsequent retirement legislation so

¹ National Education Association, Report of Committee of One Hundred on Probs. of Teacher Ret., p. 2, Washington D.C. 1930.

far as its basic features are concerned. The few legislative changes occurring since 1929 are discussed at length in Chapter V, a chapter dealing with the effects of the depression period upon teacher retirement.

The five principles listed here are five salient retirement features that are incorporated in almost all of the existing state-wide retirement systems. Many debatable problems and policies are involved in a discussion of teacher retirement system principles, but most of these problems are outgrowths of the five principles listed here. The five features most common to the existing state-wide retirement systems are as follows:

1. The system should be financed by a joint contributory plan, whereby contributions are made by teacher assessment, and from public funds.

2. Membership should be compulsory for teachers entering the service after enactment of the retirement law; optional for teachers already in service.

3. The time of service required should be thirty to forty years.

4. The system should provide for disability benefits.

5. The system should provide for withdrawal of deposits by members in case of resignation or dismissal, and in case of the death of a member his deposits should be paid to the member's beneficiaries.

Despite the fact that many features are common to practically all of the state-wide systems, there are many differences of opinion regarding some theories of retirement legislation, and hence many different practices in regard to certain phases of teacher retirement among the various systems.

Financing Teacher Retirement

Three general plans are being followed with respect to the financing of teacher retirement systems:

1. The free plan, whereby retirement benefits are paid entirely out of public funds.
2. The wholly contributory plan that is supported wholly by teacher assessments.
3. The joint contributory plan, whereby contributions to the fund are made by teacher assessment, and also from public funds that are added to the teacher assessments.

Retirement systems that are supported entirely by the state, without cost to the teacher, have never been common and their number has continually declined. Retirement systems financed wholly by teacher assessments marked the early development of teacher-retirement legislation. In recent years the tendency has been to provide for joint contributory retirement systems. Some recent legislation on retirement is indicative of a departure from straight pensions from the states, or annuities built up by the teachers only, and instead,

a retirement allowance, the cost of which is borne approximately equally by teachers and the state. Arizona and Rhode Island are the only two states that pay the teachers straight pensions while Michigan's system is the only one that does not make legal provision for contributions by the state to the fund. Montana and Washington have laws specifying that the state may contribute to the retirement fund, but in practice the teachers have borne the entire burden. In Montana the law provides that the public school teachers' permanent fund shall consist in part of "appropriations made by the state legislature from time to time to carry into effect the purposes of this act". Data on hand, however, show that the system does not receive support from public funds. In Washington the law provides that in addition to teachers' deposits, the state teachers retirement' fund shall consist also of contributions from such other source as may be provided by law. Data on hand, however, show that the system does not receive support from public funds.

The majority of recently enacted scientific laws embody the principle that the sums deposited by the teachers and by the public during the period of service should be approximately equal. The cost of a retirement system should be met jointly by the teacher and by the public. In Indiana the state deposits four-sevenths of the total deposits, and also pays the expenses of administration. In ten states the

amount of the state's payment into the fund each year is stated. In eight others the method is described in the law; but in three states provisions for the state's payment are indefinite.

In some of the states the teacher's portion of payment to the pension fund is greater than the state's and in others the state's portion is the greater. Fifteen of the states have laws specifically stating the amount to be deposited in the fund by each teacher, five outline a method of determining the amount to be deposited, and two states are indefinite as to the amount to be deposited by teachers.

Table II on page 25 shows the plan followed by each state in providing finance for teacher retirement. A study of Table II shows that practice follows the trend of theory in favor of retirement systems supported by both state and teachers. Out of twenty-two state-wide teacher retirement systems operating in 1930, seventeen are joint-contributory systems, that is, supported jointly by payments from the state and by deposits by the teachers; two are free pension systems supported by the state; while three are supported by teachers' deposits only. The joint-contributory plan is favored in theory and in practice because it builds up a feeling of cooperation between employer and employee, it makes possible more adequate benefits, and it provides contractual security.

TABLE II. PRINCIPAL SOURCE OF TEACHER RETIREMENT FUNDS.

State	Source of Funds ¹		
	State and Teacher	State Only	Teacher Only
Arizona . . . .	. . . .	. V	
California . . . .	. V		
Connecticut . . . .	. V		
Illinois . . . .	. V		
Indiana . . . .	. V		
Maine ² . . . .	. V		
Maryland . . . .	. V		
Massachusetts . . . .	. V		
Michigan . . . .	. . . .	. . . .	. . V
Minnesota . . . .	. V		
Montana ³ . . . .	. . . .	. . . .	. . V
Nevada . . . .	. V		
New Jersey . . . .	. V		
New York . . . .	. V		
North Dakota . . . .	. V		
Ohio . . . .	. V		
Pennsylvania . . . .	. V		
Rhode Island . . . .	. . . .	. V	
Vermont . . . .	. V		
Virginia . . . .	. V		
Washington ⁴ . . . .	. . . .	. . . .	. . V
Wisconsin . . . .	. V		
Totals	17	2	3

1. In some cases funds may be augmented by gifts, bequests, etc.

2. Has also a non-contributory teachers' pension system, supported by state alone.

3. Law provides for legislative appropriations, but such appropriations have never been made.

4. May receive support from public funds, but has never done so.

Compulsory Membership

There is a tendency in recent legislation to make membership compulsory for new teachers and optional for those in service at date of enactment. Some of the local and a few state-wide systems have made membership optional. Those in favor of this arrangement feel that compulsory features amount to confiscation of salary, and infringement of individual rights; on the other hand it has been felt that optional membership permits delay in joining the system until possibly too late, and does not permit a stable financial policy.³

A number of writers have pointed out the possibility of exempting beginning teachers from membership until they reach a certain age or have given a certain period of service. See, for example, "The Teacher and the State", *Education*, Vol. 12, pp. 43-45. New York: Carnegie Foundation for the Advancement of Teaching, 1914.

3

Paul Studensky, op. cit., p. 154. *The Teacher and the State*. New York: Carnegie Foundation for the Advancement of Teaching, 1914.

⁴ service. Compulsory membership for all teachers has been tried. This is thought to simplify financing the fund, and to make the system more effective. The more general practice, however, is to make membership compulsory for newly employed teachers, but to allow those already in service an option as to membership. Teacher retirement literature stresses the importance of requiring membership of new teachers in order that full effectiveness for the system may be guaranteed. Compulsion is fully justified in the case of new teachers if membership is one of the conditions of employment. Although the importance of early entrance into the system is advocated on a number of grounds, research workers on the subject generally recommend that teachers already in service should have option as to whether they will become members of a new system.⁵ It is agreed, however, that this option should be exercised within a reasonably short period. When this is done, teachers have time to make a reasoned decision, and at the same time, an early estimate of the state's future obligations is possible.⁶

⁴ E. P. Cubberley, State School Administration, p. 561, Boston: Houghton Mifflin Co., 1937.

⁵ Clyde Furst, and I. L. Kandel, "Pensions for Public School Teachers", Bul. 12, pp. 48-49. New York: Carnegie Foundation For The Advancement of Teaching, 1918.

⁶ Chas A. Prosser, and W. I. Hamilton, The Teacher and Old Age. pp. 26-27. Boston: Houghton Mifflin Co., 1913.

TABLE III. EXTENT OF COMPULSORY MEMBERSHIP IN THE DIFFERENT STATES

States ¹	Membership			
	Compulsory		Optional	
	New Teachers	Present Teachers	New Teachers	Present Teachers
California . . .	X	. . . . .	. . . . .	X
Connecticut . . .	X	. . . . .	. . . . .	X
Illinois	X	. . . . .	. . . . .	X
Indiana	X	. . . . .	. . . . .	X
Maine	X	. . . . .	. . . . .	X
Maryland	X	X	. . . . .	. . . . .
Massachusetts . .	X	. . . . .	. . . . .	X
Michigan	X	. . . . .	. . . . .	X
Minnesota	X	. . . . .	. . . . .	X
Montana	X	. . . . .	. . . . .	X
Nevada	X	. . . . .	. . . . .	X
New Jersey . . .	X	. . . . .	. . . . .	X
New York	X	. . . . .	. . . . .	X
North Dakota . .	X	. . . . .	. . . . .	X
Ohio	X	X	. . . . .	. . . . .
Pennsylvania . .	X	. . . . .	. . . . .	X
Vermont . . . . .		. . . . .	X	X
Virginia	X	. . . . .	. . . . .	X
Washington . . .	X	. . . . .	. . . . .	X
Wisconsin	X	X	. . . . .	. . . . .
Total	19	3	1	17

1. Pension systems of Arizona and Rhode Island omitted.

Table III shows that practice seems to reflect the foregoing theory, with some trend toward compulsory membership for all teachers, including those already in service when the retirement system became effective. In nineteen systems membership is compulsory for new teachers. In two of these systems at least some leeway is given beginning teachers by having the compulsory membership feature effective only after a brief period, six years in Maine, and in Wisconsin not until the teacher reaches the age of twenty-five. The retirement system of Maine was optional for all teachers, until an enactment of 1929 made membership in the joint-contributory system compulsory for all teachers with six years of state service who began teaching after this system went into effect, and were thereby rendered ineligible for benefits under the non-contributory retirement system, also operative in the state. In one system, that of Vermont, membership is optional for new teachers.

In three systems the membership is compulsory for present teachers, as well as for new entrants. Teachers in this group, however, are usually given an opportunity to secure exemption. Certain conditions are at the same time established regulating the time in which members may be admitted in order to receive prior-service credit.

The laws vary considerably on the time allowed for the exercise of the option in the seventeen systems allowing

present teachers optional membership. Under a few, membership may be elected at practically any time, prior to the close of service; in a large number a date is set after which the teacher either loses retirement privileges entirely, or may receive but limited credit for prior service.

In California, new teachers who claimed exemption and later desire benefits must make certain payments to the fund; also applicants offering service outside the state, and subsequent to January 1914, make certain payments to the fund.

In Connecticut, a date is set governing application for membership by old teachers, June 30, 1931 being the latest date set for application.

In Illinois, old teachers may elect membership at any time. New ones must belong.

In Indiana, new teachers must belong, and a recent amendment has again opened the door to old teachers until December 31, 1936.

In Maine's joint-contributory system, a new teacher having had six years of state service must belong.

In Massachusetts, members of previous teachers' retirement associations are required to join. Other present teachers may apply for membership any time before reaching the age of seventy, and they may join the system by making certain payments to the fund.

Minnesota, Montana, Nevada, North Dakota, and Pennsylvania

set a date governing application for membership.

In New Jersey, membership may be elected by old teachers after the date set for application, but an old teacher receives a limited allowance for prior service.

Ohio requires new teachers to belong after September 11, 1920, and requires old teachers to belong, except those requesting exemption. The privilege of exemption is limited to teachers in the service September 1, 1920. These teachers lose prior service credit.

Under the Washington system, membership is compulsory for new teachers after May 1, 1924. Membership is optional for old teachers. If old teachers' applications for membership are not made by the date set, they are not to be admitted.

Wisconsin's system requires both new and present teachers to belong at age twenty-five.

In Maryland membership is compulsory for old teachers as well as for new ones, unless within thirty days, a present teacher files his election not to become a member, and waives benefits. Teachers making later application must be admitted within one year following establishment of the system, to receive prior-service credit.

Length of Service Required

In determining service requirements and compulsory pro-

visions the retirement system should provide a guarantee to both the teacher, and to the public. Retirement ages and rules should be defined and administered so as to retain teachers during efficient service and provide for their retirement when old age or disability makes satisfactory service no longer possible. The retirement allowance should be sufficient to enable the retiring teacher to live in reasonable comfort, thereby removing the temptations to remain in the classroom beyond the period of efficient service. Each teacher should be assured the certainty of a retirement allowance that is adequate to permit him to maintain a respectable standard of living. Both the teacher and the public should be assured certain definite results. The public should have the guarantee that the board of education may retire teachers incapable of effective service due to advanced age or to disability. When an adequate retirement allowance is provided for, the board is in a position to maintain the efficiency of its school system. Some authorities on teacher retirement in this country advocate the stating of an age at which retirement is automatic, and beyond which no teacher can remain in service. The general effect of such a provision is probably to increase the efficiency of the schools.

In order to insure the effectiveness of a retirement system, some retirement laws specify an age beyond which teachers are not to remain in service. The statement of a

compulsory retirement age is generally recognized as an efficiency measure.⁷ The argument most frequently raised against the practice of fixing a compulsory retirement age is that in exceptional cases it causes retirement of experienced employees whose competency is apparent.⁸ The principal problem in this connection has to do with the age limit to be established. Seventy has been suggested as a desirable age for compulsory retirement.⁹

Table IV. on page thirty-four shows that seven of the twenty-two state retirement acts specify an age beyond which teachers generally may not remain in service: Connecticut, Maryland, Massachusetts, New Jersey, New York, Ohio, and Pennsylvania. The age specified is uniformly seventy. Eight other states require a minimum number of years of age before allowing complete retirement benefits. The minimum age requirements for full benefits range from fifty years in Virginia to sixty-two years in New Jersey. Ten of the fifteen states that have set minimum age requirements, set sixty as the minimum age.

⁷ N.E.A., Research Bulletin, Vol. VIII, 1930. op. Cit., pp. 248-249.

⁸ Ibid., p. 249, ff.

⁹ Albert M. Shaw, "Retirement Allowances", National League of Teachers' Associations, Bul. No. 12 (Apr. 1929), p. 18.

TABLE IV. REQUIREMENTS FOR OPTIONAL SUPERANNUATION RETIREMENT

State	Years of Service Required	Minimum Age
Arizona	30	60
California	30	
Connecticut	20	60*
Illinois	25	Not under 50
Indiana	40	60
Maine	30	60
Maryland		60*
Massachusetts		60*
Michigan	30	60
Minnesota	30	55
Montana	30	55
Nevada	30	
New Jersey		62*
New York	25	60*
North Dakota	25	
Ohio		60*
Pennsylvania	10	62*
Rhode Island	35	
Vermont	30	60
Virginia	30	50
Washington	30	
Wisconsin		50

* Specify an age beyond which teachers generally may not remain in service.

It is apparent from Table IV that seventeen states require a certain number of years of service in order for members to receive benefits. The number of years required ranges from ten years in Pennsylvania to forty years in Indiana. The median number of years required is approximately thirty. Most of the states shown in Table IV specify a certain number of years of service which is to be rendered within the state, Maryland, Massachusetts, New Jersey, Ohio, and Pennsylvania being the only states that do not. Nine states specify a certain number of years of service to be rendered within the state immediately preceding retirement; viz, California, Maine, Michigan, Minnesota, Montana, Nevada, North Dakota, Rhode Island, and Vermont, the median number of years required immediately preceding retirement being eight.

California teachers must make up deposits at five per cent interest for years of outside service claimed. They may receive credit for service in teachers' colleges, certain state schools, southern branch of The University of California, and war-time service in the United States Military and naval forces. They must apply within two years of last month of service, unless absent two years or more on duly granted leave; in such case, they may apply at any time during leave.

for Illinois teachers, by making up deposits due, may receive credit for prior service. Under such conditions one

of service. ... of leave of absence or business are not

year of professional preparation in school, or time in the service of the United States during the recent wars, is counted.

In Indiana a teacher may retire after twenty-five years of service and receive a proportionate annuity four-sevenths of which has been provided by the state, and three-sevenths by the teacher. Credit for teaching service outside the state is allowed for one-fourth of the teaching experience, and this not to exceed ten years. Each teacher is credited for prior service, but each must make up deposits due at four percent compound interest. A teacher may also retain his status in the retirement fund during leave of absence one year in seven, if deposits due the fund are made for that year. There is no compulsory retirement age in Indiana. A tenure teacher eligible for a pension cannot be forced to retire.

Maine has a joint-contributory system. The benefits of the non-contributory system are available to teachers sixty years of age with twenty-five, thirty, or thirty-five years of experience.

Massachusetts requires present teachers, for whom there is no age requirement, to have given fifteen years of state service, five immediately preceding retirement. The pension for these teachers is increased to what it would have been had retirement taken place at the age of sixty with thirty years of service. Periods of leave of absence or sickness are not

counted in the five years immediately preceding retirement, but on approval of the retirement board, they are not considered as breaking the continuity of service.

Michigan allows a teacher at the age of sixty a proportional allowance on twenty-five years of service, fifteen of which must have been in the state, including the last five years.

In Minnesota one of the twenty years required for a pension may have been on leave of absence for study. Prior service may be credited if the teacher makes up the deposits due for such a period.

Montana counts no period, for which leave of absence is taken, as a period of service. A teacher must have put in the thirty required years in actual service in order to be eligible for a pension.

In New Jersey the minimum age for retirement is sixty-two; however present teachers may retire upon thirty-five years of service, twenty-five in the state, regardless of age.

In New York the conditions shown in the table apply to new entrants. Present teachers may retire on twenty-five years of total service. Any teacher may retire on thirty-five years of service regardless of age.

New entrants in Ohio with less than five years of service are not eligible for retirement. Teachers with thirty-six years of service may retire at any age. Outside service may

be counted as prior service, if the teacher makes up deposits due for such period.

Vermont permits women to retire at sixty, but men may not retire before reaching the age of sixty-five.

Virginia sets the minimum retirement age for women at fifty and for men at fifty-eight.

In Wisconsin the annuity from the state's payments to the fund is available only when the teacher attains the age of fifty.

In order to promote the efficiency of the public schools and to protect the teachers against poverty, definite service requirements, and definite provisions for adequate benefits to those retired should be incorporated in a retirement system. All seven of the states, that have an age limit established, specify seventy as the age for compulsory retirement.

Seventeen states require a certain number of years of service in order for members to receive benefits. The number of years required ranges from ten in Pennsylvania to forty in Indiana. The median number of years required is approximately thirty.

James Frederick Rogers, "Health Examination and Vision"; *The Welfare of the Teacher*, Bul. No. 4, (1934), Washington: U.S. D. H. E. 54.

Disability Benefits

Those who have the welfare of the schools at heart know that it is only fair to the boys and girls in school that each teacher have good health. A certificate of health, before

appointment, is required of teachers in about two-thirds of the largest cities of the country, which responded to inquiries made by the Office of Education at Washington.¹⁰ Another means of promoting school efficiency is to provide for teachers disabled prior to the time of regular retirement.¹¹ Having the state and the individual teacher share the expense of disability provision is suggested as the most practical and satisfactory plan.¹²

Table V, page 40, Conditions for Disability Retirement in States Having State Retirement Laws, shows the nature of the requirements for disability benefits pertaining to age limitation, years of service, and residence requirements in the twenty-two states having state retirement laws in operation. It shows the total number of years of service required in each state, and the amount of the total service that must be performed within each state before a teacher is eligible for a disability allowance; in addition the table shows the age limits of five states for retirement benefits.

10

James Frederick Rogers, "Health Examination and Supervision", The Welfare of The Teacher, Bul. No. 4. (1934), Washington: U.S. Gov. Printing Office, p. 54.

11

N. E. A. Research Bul., Vol. VIII, op. cit., p. 254.

12

Howard J. Savage, and Edmund Cogswell, "A retirement Plan for Colo. Pub. Schools", Bul. 22. (1928) p. 35. Carnegie Foundation for Advancement of Teaching: N.Y.

TABLE V. CONDITIONS FOR DISABILITY RETIREMENT IN
STATES HAVING STATE RETIREMENT LAWS**

State	Years of Service		Age Limitation
	Total Number Required	Amount of Total to be in State	
Arizona	20	All	. . . . .
California*	15	All	. . . . .
Connecticut	10	All	Under age 60
Illinois*	15	9	. . . . .
Indiana	10	All	. . . . .
Maine	6	All	. . . . .
Maryland	5		. . . . .
Massachusetts	20	All	Under age 60
Michigan*	15	All	. . . . .
Minnesota	15	10	. . . . .
Montana*	15	All	. . . . .
Nevada*	15	All	. . . . .
New Jersey	10	All	Under age 62
New York	20	10	. . . . .
North Dakota*	15	All	. . . . .
Ohio	10	All	. . . . .
Pennsylvania	10	All	Under age 62
Rhode Island	20	All	. . . . .
Vermont	6	All	. . . . .
Virginia	20	All	. . . . .
Washington	10	8	. . . . .
Wisconsin*	5	All	Under age 50

** Shown in the retirement laws of the states.

* Require a specified sum of deposits by teachers before disability benefits are allowed.

The retirement systems of the seven starred states in in Table V, page 40, require certain deposits by teachers before they are entitled to disability benefits. California requires twenty-four dollars per annum for thirty years. Connecticut requires five percent of salary for five years. Illinois requires that the sum of four hundred dollars must have been deposited by the teacher. Michigan requires that the deposits must equal one-hundred percent of the annuity for one year. Montana requires that the sum of six hundred dollars must have been deposited in the fund by the member. Nevada requires twelve dollars per annum for thirty years. North Dakota requires that the sum of deposits must equal to the annuity to which teacher is entitled for the first year. Wisconsin requires that the teacher must be a member of the retirement association for five years, and disability must have continued for sixty days, in order to qualify for disability benefits.

In a number of states, the amounts secured respectively from the teacher's deposits or the state's payments are not clearly distinguished. In many cases the disability allowance represents a fraction of the regular superannuation retirement allowance. The practice among the more recently established systems is to provide disabled teachers with:

1. An annuity representing the actuarial equivalent of the teacher's accumulated deposits, and

2. A pension from the state to bring the total disability allowance up to an amount proportional to length of service, but not to exceed the allowance provided for regular superannuation retirement provisions. Maryland and New Jersey are examples of this type.

Minimum disability allowances are as follows: Vermont \$200, New Jersey \$300, North Dakota \$350, and Rhode Island \$500; or from twenty-five to thirty per cent of the salary, as in Maryland, New Jersey, Ohio, and Pennsylvania. Maximum limits established in the form of flat sums are: Illinois \$400, Virginia \$500 (in certain cases), and \$750 in North Dakota. In other states the maximum disability allowance is expressed as a fraction of (1) the rate due had retirement occurred at a later age as in Maryland, New Jersey, New York, Ohio, and Pennsylvania; (2) the average annual salary during the entire period of service as in Maine, and Vermont; (3) the salary during the year in which disability occurred as in Indiana where the disability allowance for one year is \$500 which is five-eighths of the minimum wage for that state.

Table V, on page 40, also shows that applicants for disability benefits from the state-wide retirement systems are required to have given a certain period of service, most often ten or fifteen years. In general, in all except Illinois, Minnesota, New Jersey, and Washington, this service must have

been rendered in the state wherein the applicant was teaching at the time the disability occurred. A number of states require the teacher to be under a certain age, in order to secure disability benefits, generally the minimum age for superannuation retirement. Table V, page 40, shows the age limitations imposed by the states of Connecticut, Massachusetts, New Jersey, Pennsylvania, and Wisconsin.

Fourteen of the state systems require the applicant for disability benefits to establish his claim through medical examination. Practically all of the state systems call for some sort of proof of disability upon application for disability allowance, although a medical examination may not be specified.

Withdrawal Privilege

Authorities appear to be generally agreed that the sum of the teacher's deposits should be available in some form in case a teacher leaves service prior to regular superannuation retirement. It is pointed out that the teacher's deposits should be considered a savings account until the amount is transferred into the retirement fund at the time of retirement upon annuity.

Some arguments have been made against withdrawal of deposits. The argument has been advanced that such a privilege tends to encourage resignation as a means of obtaining funds to meet temporary financial stringencies. Paul Studensky states two results of no withdrawal privileges: "No withdrawals might stabilize the profession--keep teachers in it, but it might overburden school systems with inefficient teachers who would not resign because of fearing to lose pension rights. Officials would not 'fire' for same reason."

An analysis of Table VI, page 45, Amount of Deposit Withdrawable by Teacher who Leaves System Prior to Regular Retirement, shows that in practice a teacher's deposits are generally considered to be personal property, and are returnable upon withdrawal from membership in the retirement system, either in full or in part in all but three states--California, Montana, and Virginia--prior to regular superannuation retirement. In eleven of the retirement systems, a teacher's deposits are available in full following resignation or dismissal, and may be refunded in a lump sum or in installments. A number of the states provide that a teacher may elect the return of deposits in the form of an annuity. In six states, a part of the deposits is returnable prior to regular retirement.

TABLE VI. AMOUNT OF DEPOSIT WITHDRAWABLE BY TEACHER
WHO LEAVES SYSTEM PRIOR TO REGULAR
RETIREMENT

Retirement Systems ¹	Amount of Deposit Withdrawable		
	All	Part	None
California			X
Connecticut	X		
Illinois		X	
Indiana ²		X	
Maine	X		
Maryland	X		
Massachusetts	X		
Michigan		X	
Minnesota		X	
Montana			X
Nevada		X	
New Jersey	X		
New York	X		
North Dakota		X	
Ohio	X		
Pennsylvania	X		
Vermont	X		
Virginia			X
Washington	X		
Wisconsin	X		
Total	11	6	3

1. Pension systems of Arizona and Rhode Island omitted.

2. Returns all, with interest, after ten years.

Table VI, page 45, also shows the six states that return a part of the teacher's deposits in case of his withdrawal from the system. The amount of member's deposits returnable upon withdrawal in four states, Illinois, Michigan, Minnesota, and North Dakota, is one-half of deposits, without interest. Nevada's system pays back to the teacher who withdraws from the system all of his deposits in excess of sixty dollars; viz, teacher's total deposits for five years. Indiana's retirement system returns all of the teacher's deposits after he has been a member ten years, with compounded interest. If the teacher retires before ten years of service he is paid a fractional amount of his deposits, according to the length of time that he has served; furthermore, no teacher may withdraw his deposits in the retirement system while actively engaged in teaching.

From Table VI, page 45, it is also noteworthy that the Vermont retirement system returns all of deposits upon a member's withdrawal; however, interest is not withdrawable if membership in the system amounted to six years or more, unless a teacher has become a member of the system since June 30, 1931; in that case a teacher withdrawing from the fund would be entitled to receive from the annuity fund all amounts contributed, with interest at four percent compounded semi-annually. The retirement system of the state of Washington

makes available the teacher's deposits in their entirety, without interest, upon his dismissal. The Connecticut system returns teacher's deposits in the fund in full, with regular interest thereon, in full, or in quarterly payments as the retirement board may elect; similarly the Maine system returns all amounts contributed by the teacher as assessments, with interest upon his withdrawal from the fund. The other state retirement systems that pay all of the teacher's deposits upon his withdrawal in the main follow the policy of paying, on demand to the withdrawn member, the accumulated contributions standing to the credit of his individual account in the annuity savings fund.

Table VI, page 45, does not consider the two non-contributory systems of Arizona, and of Rhode Island since, under such systems the teachers make no deposits.

Refunds to Beneficiaries in Case of Death

As in the case of withdrawal from service upon resignation or dismissal prior to retirement, writers generally agree that the sum of a deceased teacher's contributed assessments or deposits, with interest, should be payable to his heirs. The deposits are considered to be a fund which belongs to the teacher, and a means whereby each teacher may build up an estate.

15

Some objections to the return of deposits, in event of a teacher's death, have been offered.

A study of some seventy state and local teacher retirement systems over the period from 1894 to 1924 reveals a growing tendency to grant refunds, in case of withdrawal from service, or death before retirement.¹⁶ Table VII, page 49, Amount of Deposit Returnable Upon Teacher's Death Prior to Regular Retirement, shows that eleven state-wide teacher retirement systems provide for payment to the deceased's estate, or beneficiary, of the sum of a deceased teacher's deposits, with interest accumulation. Seven of the systems make no provision for such payment. Two state systems make a partial return of the teacher's deposits.

Indiana's retirement system requires that application for the deceased teacher's deposits must be made by his beneficiaries within three years after the teacher's death. Minnesota's system refunds one-half of the deceased teacher's deposits. The system of the State of Washington pays one-half the difference between the amount that has been contributed by deceased teacher, and the sum of any disability benefits paid.

15

Lewis Meriam, Principles Governing The Retirement of Public Employees, New York: D. Appleton and Co., 1918, p. 235.

16

N.E. A. Research Bul., Op. Cit., p. 247.

TABLE VII. AMOUNT OF DEPOSIT RETURNABLE UPON TEACHER'S DEATH PRIOR TO REGULAR RETIREMENT

Retirement System ¹	Amount of Deposit Returnable		
	All ²	Part	None
California			X
Connecticut	X		
Illinois			X
Indiana	X		
Maine	X		
Maryland	X		
Massachusetts	X		
Michigan			X
Minnesota		X	
Montana			X
Nevada			X
New Jersey	X		
New York	X		
North Dakota			X
Ohio	X		
Pennsylvania	X		
Vermont	X		
Virginia			X
Washington		X	
Wisconsin	X		
Total	11	2	7

1. The free pension systems of Arizona and Rhode Island are omitted, because they pay pensions without cost to the teachers.

2. All of the eleven states that return deposits of deceased teachers also return interest accumulations.

Summary

The retirement system that most nearly conforms to the five principles of teacher retirement that were set forth by The Committee of One Hundred on Retirement Allowances of the National Education Association is perhaps that of Vermont. It allows retirement at the age of sixty for women and at the age of sixty-five for men, and in case of disability, retirement after six years of service. Although membership is optional, the system provides a reasonable contribution from the teacher, which is duplicated annually by the state. In case of either withdrawal or death before retirement, the teacher or his estate has the benefit of the state's contribution as well as his own.

The Wisconsin system is possibly too conservative in not admitting teachers until they are twenty-five and too generous in allowing retirement at age fifty, and it is impossible for the layman to tell from its regulations the amount of the state's contribution and the consequent provision for retirement. On the other hand, the teacher's contribution is reasonable, the state's contribution is made concurrently, there is a disability provision after five years of service, and, in case of death before retirement, the teacher's estate receives the state's contribution as well as his own, although in case of withdrawal he receives only his own accumulations.

The systems of Connecticut, Indiana, Massachusetts, and Ohio occupy a middle ground. They require membership of all teachers who began to teach subsequently to the installation of the systems, and all require reasonable contributions from the teachers; also, all have optional retirement from the age of sixty to sixty-nine years of age and compulsory retirement at the age of seventy, and all return the teacher's accumulations at withdrawal or death. All of them allow disability retirement after ten years of service, except Massachusetts, where twenty years is required. All provide allowances from the state equal to those provided by the teacher, except Indiana, where the state provides four-sevenths of the total. Massachusetts has a theoretical minimum retirement allowance of \$1,000, Connecticut and Indiana \$700; and Ohio appears to have no minimum. Ohio deposits are concurrent with those of the teacher, deposits of the Indiana system are biennial; Connecticut's system requires the deposits of members to form a reserve at the time of retirement of each member, while Massachusetts depends upon the precarious arrangement of making appropriations year by year to pay the pensions of teachers who have already retired.

The systems of Maryland, New Jersey, New York, and Pennsylvania also are much alike. Their appropriations are concurrent with those of the teachers except the Pennsylvania

system where the appropriations are semiannual. Upon withdrawal, all return the teacher's accumulations; however, Pennsylvania returns them only in the form of an annuity. In case of death, all return the teacher's accumulations, with the addition in Maryland of life insurance equal to half of a year's salary. Retirement in Maryland is at sixty or thereafter, or after five years of service in case of disability. In both New Jersey and Pennsylvania, retirement is at the age of sixty-two, and after ten years of service in case of disability. All four of the above-mentioned systems unfortunately base their allowances upon guesses at future salaries, New Jersey on the total of all salaries, Maryland and New York on a number of years before retirement, Pennsylvania on the final salary. New York has, in addition, the handicaps of permitting retirement in case of disability only after fifteen years of service, and retaining the old-fashioned, expensive, and otherwise undesirable provision of retirement after thirty-five years of service irrespective of age.

CHAPTER IV

THE JUDICIAL STATUS OF TEACHERS'

PENSION AND RETIREMENT LAWS

Previous discussion has dealt mainly with the chief provisions in teachers' pension and retirement laws. This chapter will consider those aspects of the laws that have led to legal controversy and settlement in the courts. It should be noted here that the issues arising from the laws involve, for the most part, constitutional questions and interpretations of specific provisions. The disputes growing out of pension and retirement legislation and enforcement of the laws may be divided into the following forms:

1. Questions involving the constitutional validity of certain provisions of the laws.
2. Actions arising from contentious opinion on the proper interpretation of various parts of the laws.

Earlier in the study, the retirement laws were analyzed from the standpoint of the intent of the legislators as evidenced by the provisions which they incorporated in the various enactments, but no study of law is complete which stops short of the interpretation of that law by the courts.

The interpretation which the judiciary places upon a law is often as important as the intent which was originally breathed into it by its author.

The main target of contention in the cases on pension and retirement laws has been their constitutionality. These constitutional attacks were launched during the period 1901-1918 inclusive. The pioneer and unsettled stage in the formation of such laws provoked, no doubt, a great part of the challenges to their legality. Since 1918 the suits have centered on matters of interpretation, powers of boards of education to countermand legislative provisions, and similar questions which carry little or no constitutional implication.

May a System of Teachers' Pensions Be State-wide?

In North Dakota, the teachers' retirement act provided that each county treasurer should set aside from the county tuition fund, and transmit to the state treasurer a sum equal to ten cents for each child of school age in his county; and that the state treasurer should credit such money to the teachers' insurance and retirement fund. In upholding this statute from many objections the court said:

If all of the people of the state may be taxed to pay the salaries of the state superintendent of public instruction, and the state high school inspector, whose duties are largely to supervise the schools and their

teachers, if they may be taxed to support the normal schools and state universities, which train teachers, they may certainly be taxed also in order to provide a fund which shall increase the efficiency of the teachers themselves, and aid and encourage them to devote their lives to a profession which, though essential to our civilization has been but poorly encouraged, and has too often been looked upon as a stepping stone to other employments.

Nor does that act in any manner violate Section 175 of the constitution which provides that no tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

The use of a portion of county tuition fund is germane to the general purposes for which the county tuition fund was raised--it was for school purposes. All that the act creating the pension fund does is to state how some of the money shall be used. The granting of pensions is germane to the general purpose of the general act. An exact enumeration of all items of expenditure to which the revenue of the state may be applied is neither practical nor required by the constitutional provisions."¹

"Nor, as we have before said, is there any merit in the contention that the residents of one district will be compelled to pay taxes for the support of teachers in another. As was said by Judge Christianson, of the North Dakota Supreme Court: 'We are aware of no constitutional requirement that taxes levied for a general public purpose must be expended and disbursed in the taxing district in which they are collected. If this were true every department, not only of the state, but also of the county government, would cease to operate.'"²

In spite of the above liberal view, and liberal interpretations elsewhere, some states would have to have amend-

¹

Stinson et al. v. Thorson, 34 N. D. 372, 158 N. W. 351;

²

State ex rel. Haig v. Hague, 37 N. D. 583, 164 N. W. 289, L. R. A. 1918 A 522.

ments to their constitutions before state-wide teacher retirement would be possible. In Chapter V of this study, page 88 the chapter on recent legislation, two states were mentioned that have been trying to get amendments in order to have state-wide teacher retirement systems, (Texas, and Missouri).

May School Boards Compel Contributions to Pension Funds?

The answer is no, unless a legislative enactment grants the power to a school board to set up a fund and to require teachers to pay a certain percent of their salary into it.

In 1902 in Minneapolis, the board of education of the city of Minneapolis adopted rules and regulations providing that one percent of the salaries of the teachers employed by the board should be deducted and paid into a fund for the purpose of providing annuities for teachers. All teacher's contracts stipulated that such percentage of their salaries be diverted by the board for such purpose. Shortly after this system was inaugurated, however, the city comptroller refused to sign a warrant drawn by the school board upon the city treasurer in favor of the trustee of the teachers' retirement fund, and one of the teachers applied for a writ of mandamus to compel him to do so. This was refused on the ground that the board of Education, under existing laws,

possessed no authority to make the contract.³

Had this scheme of the Minnesota school board been in fact the voluntary arrangement of the teachers themselves, it very likely would have been sustained. In that case each teacher would have turned over one percent of his salary to the pension fund. As written, however, one percent of the salary did not go to the teacher. He could not collect it. It remained public money, and as such it could not be devoted by the board to the creation of a teachers' pension fund, because the board had no authority to use public money for such a purpose. The court said:

"It is within the power of Minnesota state legislature to grant the school board such a power, but it has not been done."

May the Legislature Compel Contributions to Pension Funds?

In order to create a "teachers' pension fund" the legislature of Ohio provided that one percent of the salaries of certain city teachers should be deducted, and paid into the city treasury to the credit of said fund. To test the validity of this act a Toledo teacher brought an action in mandamus to compel the board to pay him twenty-four dollars, the full

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State ex rel., Jennison v. Rogers, 87 (Minn.) 130, 91 N. W. 430, 58.

amount of his salary for a month's service in the night school.⁴ The board had tendered him a warrant for \$23.76, retaining one percent of his salary as the law required. This law was declared unconstitutional and the teacher was given his full salary. The court held that this law either imposed illegal taxation or required the taking of property without due process of law. The court said;

Money taken from the teachers by virtue of this statute is either taxation for the public good, or it is the taking of money from one person for the benefit of another, contrary to the will of the person from whom it is taken and without his consent. A law which imposed the burden of taxation upon one class of citizens, to wit, the teachers cannot be called a law taxing by a uniform rule.

If on the other hand the money so deducted from the teacher's salary is not to be regarded as taken for the public good, and as taxation, then it is the taking of the private property from one citizen for the benefit of another without his consent, and against his will. A teacher's salary is his property. He has a right under the constitution to use that salary for his own benefit, or for the benefit of others as he sees fit. If he thinks it best to provide for old age, he may do so; but if he prefers to spend his money as he earns it, it is his right under the constitution to do that.

However plausible its reasoning, this Ohio decision is contrary to the weight of authority which upholds a statute providing for compulsory contribution to teachers' retirement funds.⁵

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Hubbard v. State of Ohio, 64 N.E. 109, 65 Ohio 574, 58 L.R.

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Harry Raymond Trusler, Essentials of School Law, pp. 226-238. Milwaukee: Bruce Publishing Co., 1927.

There was another criticism the court had of the Ohio statute. Under its provisions a female teacher is not entitled to retire and be put on the pension list upon her own motion until she has taught thirty successive years, and a male teacher is not so entitled until he has taught thirty-five years. The Ohio constitution in common with most state constitutions, prohibits the granting of privileges to one which are denied to others of the same class, and requires that all laws of a general nature shall have a uniform operation throughout the state; consequently, as this law grants some teachers greater privileges than others the court concludes that "it is in contravention of the equal right to which all are entitled in the enforcement of laws, and in the acquisition and possession of property, and so is not of uniform operation."

It is admitted, however, that pensions for teachers do not have to be the same for the same term of service,⁶ but that they may be graded according to the time of service, and amounts of contributions.⁷ There being reasonable basis for the classification, pensions may vary in the different counties of a state.⁸

⁶ State Ex rel. Haberlan v. Love, 131 N.W. 196 (Neb.) 149.

⁷ Borgnis et al. v. Folk Co, 133 N.W. 209, 147 (Wis.) 327.

⁸ Robinson c. Solomon et al., 193 N.W. 499, 222 (Mich.) 618.

It was urged that the teacher was estopped from attacking the validity of the Ohio statute, because he had accepted an appointment as a teacher subject to its provisions. The court, however, promptly repudiated this doctrine, saying:

The accepting of such an appointment does not estop him from attacking the validity of any act that is on the statute books. He accepted the appointment subject to the valid and constitutional laws of the state only.

Views respecting the nature of compulsory contributions by teachers from their salaries for the creation and support of a retirement fund according to other courts are as follows:

1. They are public funds retained by the public authorities for a pension fund.⁹

2. They are a part of the teacher's salary reserved for a pension fund under a contract between him and the school authorities.¹⁰

Professor H. L. Wilgus in commenting upon the Ohio decision said:

It takes two to make a bargain, and the state has as much right to fix the terms upon which it will employ some one as any other employer has, and to name the terms is only to make an offer, and in no way deprives any one of his liberty to contract, and especially to hold office or employment in the public service.

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Cohn v. Henderson. 124 Pac. 1037, 19 (Cal.) App. 783,

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Allen v. Board of Education, 79 Atlantic 101, 81 (N. J.) 135.

No one has any right to teach in the public schools except upon the terms prescribed by the state, and by those in whom the control of the public schools has been vested. The state can certainly name terms and conditions by statute, which will enter into and become part of any contract to teach made afterward, just as fully as if they were expressly written into any formal contract signed by the parties thereto, just as the statute of frauds applies to every contract made.¹¹

Must Compulsory Contributions be Clearly Required?

The Idaho teachers' retirement law of 1921 (repealed later in 1929) made it the duty of each district clerk to collect from the teacher of the district one-half of one percent of their annual salaries for the teachers' retirement fund. The board of said fund mandamus a clerk to compel him to collect such sum from the teachers or to deduct it from their salaries. Said the Court:

Does the statute create a binding obligation to pay on the part of the teachers, which can be enforced by the defendant? Nowhere does it expressly provide that the teachers must pay. Petitioners suggest that the respective school districts deduct the amount from the salary before paying it. This is the method expressly provided for in most of the teachers pension statutes in the country. The Idaho law does not give the school districts power to make such deduction: Section twelve provides that failure to make the required payments renders a teacher ineligible to participate in the fund until all back payments are met. This is the only method provided of requiring

the teacher to pay. We conclude that this method, and penalty are exclusive.¹²

May Compulsory Contribution Laws Operate Retrospectively?

That legislative acts are held to operate prospectively¹³ is clearly expressed. Whatever the legislative intention it is plain that such a statute cannot apply to contracts entered into before its enactment. Such a statute never can be retrospective in its operation; because, if it were, it would impair the obligation of contracts contrary to both the state and the federal constitutions.

The legislature of New Jersey provided that any teacher who had contracted with the board of trustees of the teachers' retirement fund under the law of 1896 should be deemed to have accepted the amendatory provisions of the law of 1899 by accepting any salary from which a deduction, corresponding to the original deduction, had been taken. This provision, however, was correctly held unconstitutional. The court said:

The difficulty with this provision is that the plaintiff was already bound to submit to the same deduction or break her contract, under act of 1896, and she must either submit to the deduction or break her contract. She had no other choice.

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State ex Rel., Davis v. Kingsley, 205 Pac. 892, 35 (Idaho) 262.

¹³

State v. Ziegenhein, 45 S.W. 1099, 144 (Mo.) 283, Am. St. Rep. 420.

State v. Ziegenhein, 171 (N.Y.) 263, 63 N.E. 1107.

State ex Rel. v. Ziegenhein, 151 N.W. 196, 59 (Mich.) 140.

May Pensions Be Granted To Retired Teachers?

In the absence of constitutional prohibition the legislature is not confined in its appropriation of public moneys to causes in which a legal demand exists against the state, but it may recognize claims founded upon justice or equity; consequently, teachers who have already retired may be granted pensions. Such pensions, however, are a mere gratuity, as there is no legal nor moral obligation on the part of the state to pay teachers more than the salary stipulated when the work was undertaken; moreover, such a pension is unconstitutional whenever the legislature is prohibited by the state constitution from granting any extra compensation to a public officer, as was the case in New York under its constitutional amendment of 1875.¹⁴ Such a constitutional provision, however, would not prohibit the legislature, or a county or a district under its authority, from providing pensions for all teachers who should accept contracts to teach after the passage of the pension law.¹⁵ As to them the possible benefits of the pension would not be a gratuity, but a part of the inducement held out by the state to secure their contracts. The teachers would be working, not only for their salaries, but for eligibility for pensions as well. As Judge Cullen of the New York Court puts it, the system of pensions "would be an inducement

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Mahlon v. Bd. of Edu., 171 (N.Y.) 263, 63 N.E. 1107.

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State ex rel Haberlan v. Love, 131 N.W. 196, 89 (Neb.) 149.

both to serve at low wages, and also to good conduct in service.¹⁶ In spite of the fact that states have the right to pension teachers, not many of them have done so. As brought out previously in this discussion, only two states pension retired teachers.

May Pension Laws Partly Complied With Be Repealed?

The repeal of a pension law may damage teachers who are working under it for a pension. Under its allurements they may have accepted smaller salaries, and refused better offers from other schools, and chances for good investments, in order to comply with the conditions upon which the pensions were granted. Yet, as a matter of law the teacher has sustained no injury. He has not been deprived of any property, but only of a mere expectancy of property; and the state has not violated the obligation of its contract with him contrary to the constitution of the United States.

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An analogous case:

A California statute provided that two dollars per month should be retained from the pay of each police officer to constitute a fund out of which, on certain conditions,

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Mahlon v. Bd. of Edu., loc. cit., 63 N.E.

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Pennie v. Reis, U.S. 464, 330 S. (L. Ed.) 426.

the personal representative of the deceased officer should be paid \$1,000. Before the death of a certain police officer, who had worked under this system, this fund was merged by the legislature into another fund in which the personal representative had no rights. Upon being refused the \$1,000, the personal representative of the officer in question applied for a writ of mandamus to compel its payment. It was held by the court that until the police officer's death, the fund in question could be applied by the legislature to a different purpose. There was no contract by the state that the disposition of the fund should always continue as originally provided; and until the event happened upon which the money was to be paid, there was no vested right on the part of the personal representative to have this payment.

This decision, however, is based on the theory that the money retained from the salary of the public officer remained public money. If the two dollars a month had been in fact paid to him and afterwards he had contributed it to an insurance fund, a different question, as the court admits, would have arisen in respect to the sum of money so contributed. Likewise, should teachers under statutory regulation build up a pension fund out of their private money, the repeal of the statute would certainly not divest them of their interest in the money accumulated for this purpose, and a pension statute may protect teachers by providing for a refund of their contributions upon their withdrawal from teaching or the repeal of the statute.

May Pension Laws Fully Complied With Be Repealed?

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Although a state law provides for the creation of a pension

fund out of public money, whenever a teacher complies with its conditions, and becomes eligible for a pension, the subsequent abolition of the pension system cannot affect his right to receive a pension. By complying with the conditions upon which the state offered the pension, the teacher acquires vested rights under a contract, whose obligation the state cannot impair, on account of the prohibition of the constitution of the United States.¹⁸ Legislation of any state impairing the obligation of a contract is null and void, and the courts in enforcing the contract will pursue the same course, and apply the same remedies as though such invalid legislation had never existed; consequently, a teacher could generally enforce his legal right to receive a pension from the state;¹⁹ however, cases are conceivable where the teacher would be without judicial remedy. If, for example, the money for pensions were appropriated at each term of the legislature, there is no method by which the legislature can be compelled to appropriate it. In Montana and Washington a law in each of these two states provides for appropriations to be made to the fund for teacher retirement, but as was shown on page twenty-three of this study, no money is being turned over to the fund in

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Franklin Co. Grammar School v. Bailey, 20 Atl. 820, 62 (Vermont) 467, L.R.A. 405.

19

State V. Pillsbury, 26 U.S. (L.Ed.) 1090.

in either case. Data at hand show that no appropriations have been made.

Likewise, should the state constitution require the teacher's warrant for a pension to be countersigned by the treasurer, there is no method by which the courts can compel the governor to countersign the warrant. ²⁰ In such cases, of course, the courts would be powerless to assist the teacher, but the sense of honor of the state may safely be relied upon to speedily correct such evils.

As brought out in Chapter V, page 75, attempts have been made to repeal the pension law of Arizona. In case of repeal of that law, all teachers who have contracted to teach in that state, while the law was in force, will be entitled to the pension promised by the law. Only teachers, who contract after repeal of such a law, will not be entitled to the benefits of the law after its repeal.

Does Contribution to Pension Funds Confer A Right to Employment?

On this question the Supreme Court of Illinois has said, in upholding the right of a school board to refuse to employ teachers who are affiliated with labor unions:

The existence of a teachers' pension fund in the city of Chicago does not restrict the board of education in its right to select such persons as teachers as it may desire to employ, nor does it confer upon one who has been a contributor to such fund any right to demand that he or she be re-employed. The only right upon which a contributor to the fund can insist, in case the board concludes that it will not reemploy him or her, is the right to receive at once the money he or she may have contributed to the fund.²¹

Summary

From the foregoing discussion it may be concluded that the legislature of a state may exercise broad discretion in providing funds for teachers' pensions. It may appropriate funds directly from the state treasury, it may require local districts to make contributions to the state pension fund, or it may apply any fund obtainable for general educational purposes. In the absence of statutory authority to do so, a school board cannot deduct portions of a teacher's salary for the purpose of creating a pension fund. Pension legislation fully complied with on the part of the teacher constitutes a contract between the teacher and the state which cannot be modified by subsequent legislation. Unless restrained

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People ex rel. Tursman v. City of Chicago, 278 (Ill.) 318, 116 N.E. 158.

by some constitutional provision the legislature may grant pensions to retired teachers. This cannot be done, however, where the constitution prohibits the legislature from granting extra compensation to a public officer or servant.

A review of the decisions cited in this chapter shows that the constitutional validity of teachers' pension and retirement systems is fairly well established. The only instance of its being held invalid arises from the trial of *Hibbard v. State* in Ohio. In this case invalidity was established on the grounds that the law negates uniform protection by the law, that it permits the taking of property with due process of law, and that it violates the constitutional provision on taxation. The weight of authority and certainly that of opinion, more recent than that illustrated by the famous Ohio case, fixes the laws as constitutionally valid.

The trend of the more recent issues directs attention to the necessity for greater clarity in the definition of some of the terms of the law. The fact that boards of education cannot gainsay the provisions of the pension and retirement laws through specially constructed rules or regulations evinces the statutory stability of such laws, and indicates that the legal basis for such laws is decidedly a more warranted and a less controversial matter than the

various constitutional and other attacks would impute to it.

Since a very few of the charges brought against the laws have been settled in a manner contradictory to their original intent it is doubtful that the legal attacks upon such statutes have had appreciable effect in modifying the form of the laws as they have been enacted, and revised from time to time by the legislature. No definite indications that judicial action on the soundness of the laws has brought about essential alterations in the provisions were found in this study, the law adjudged unconstitutional in Ohio, of course, excepted.

CHAPTER V

TEACHER RETIREMENT IN THE DEPRESSION

Teacher Retirement 1930-33

This period might well be called the early depression period. Each legislative year of this period has had its quota of destructive measures threatening established retirement systems, or the general progress of teacher retirement. In 1933 there were attempts made to repeal four state-wide teacher retirement enactments, to place restrictions on the use of state funds for retirement purposes, and to reduce or eliminate amounts contributed from public sources. Proposals to remove the tenure rights of teachers, who reach the age for optional retirement, accompanied the general movement for economy in school expenditures. The cooperation and the enlightened efforts of school officials, legislators, and others, seem to have prevented the enactment of these destructive measures. In such cases the campaign of education, carried on by the National Education Association on retirement during these years, is now revealing its results; however, the effect of such proposals upon the status of established retirement

systems, or upon retirement provisions as a whole, must not be overlooked. It is evident that the Committee of One Hundred of The National Education Association is not relaxing its vigilance in its campaign and research:

The Committee of One Hundred, of the National Education Association, has never had more serious problems to consider than those at the present time. Reduced revenues for schools have thrown into relief many financial, administrative, and psychological problems relating to retirement allowances for teachers. In some states the teachers are not enrolled in any joint-contributory retirement plan. Under present conditions of depression, they may be unable to provide for their own security in old age. In some states, retirement systems that were already proven inadequate now influence public opinion against retirement systems in general. Even where systems have been operating on a sound basis, increasing pressure is being exerted to undermine their organization.¹

The report further adds:

Now is the time to reaffirm the Committee's statement of the fundamental principles of a teacher retirement system. Especially appropriate are the principles that recommend joint-support of retirement systems, regular accumulation of funds, maintenance of reserves, and return of accumulated deposits. In the light of present conditions, the committee should supplement and reinforce the principles, by stating that:

1. The integrity of the retirement funds must be preserved.
2. Adjustments, even though temporary, in the administration of the retirement funds, should be based only upon expert advice and careful study.
3. Expert supervision should govern the investment and accounting of retirement funds.

¹ National Education Association, Report of the Committee of One Hundred on Problems of Retirement, p. 3. Washington D.C. 1933.

4. Considerations of economy should not lead school systems to retire competent, experienced, higher-paid teachers involuntarily, immediately upon attaining the age for optional retirement.
5. School systems at present unable to adopt retirement provisions for their employees, should continue, nevertheless, to study the problem.²

At the beginning of the depression in 1929 and 1930, teachers' salaries were not lowered noticeably, but after incomes, in general, were decreased because of business depression, teachers' salaries became visably affected. Retrenchments in school costs became necessary because of depleted sources of income from taxes. In a study made in 1933 by the Office of Education at Washington D. C., reports from all states showed salary reductions of from ten to forty percent,³ making the need for protection in old age greater than ever before, because of the inability of the average teacher to maintain an adequate standard of living while trying to save a portion of his salary to provide for old age.

Legislation 1930-33

In 1930-31 teacher retirement bills before state legis-

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Ibid., p. 3, ff.

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Office of Education, The Deepening Crisis in Education, Leaflet No. 44, p. 7. Washington: 1933.

latures numbered thirty-four. In 1932 and 1933, nineteen states and Hawaii considered retirement proposals during legislative sessions. A total of sixty-two bills were introduced, twenty-one were passed and approved. Of the twenty-one bills defeated, twelve never came to a vote. Final action has not been reported on twenty bills, four of which have been enacted and await approval. The increase in the number of bills in 1932-33 over the number in 1930-31 results from the introduction in several states of measures attempting to cope with decreased school revenues at that critical time of the years 1932-33.

In 1933 another state enacted laws establishing a state-wide retirement system. New Mexico established a system to take effect January 1, 1934, but it is inoperative at the present time due to lack of funds. The New Mexico legislature provided for the establishment of a state-wide teacher retirement system for all teachers employed in the public schools, and other educational institutions supported by the state, or any political subdivision thereof. The state teachers pension fund is composed of all contributions made by teachers ranging from fifty cents to two dollars per month according to the amount of the salary, income from the investment of

moneys in the fund, five percent of inheritance taxes collected each year by the state, appropriations made by the state legislature, and donations. Membership is optional, and teachers' deposits are returnable upon withdrawal from service. Teachers at the age of sixty-five with twenty-five years' state service following January 1, 1934, will be entitled to a retirement allowance of four hundred dollars per year. A proportionate allowance is available for disability, after ten years' service.

5 Summary by States

Arizona

House Bill 253, enacted in 1933, became effective June 14, 1933. Section 1046 of this law prohibits pension payments to teachers who receive remuneration from the Federal Government, state or county, city or municipality, or school district. The senate defeated in 1933 an attempted repeal of the present pension law operating for Arizona teachers. As the repeal was defeated by a majority of only two votes, the recommendation has been made that teachers should agree on

some new retirement plan by the next legislative session.

California

Senate Bill 357, passed and approved, gives persons entering state service who are eligible to membership in the teachers' retirement system the option of remaining therein or enrolling in the retirement system for state employees. Present state employees would be allowed to transfer membership in the latter system to the system operating for teachers.

Connecticut

A decision of the State Supreme Court⁶ in its March, 1933 term indicates that teachers' deposits toward retirement annuities shall be based on salary actually received, although such salary may have been reduced below contract salary.

Delaware

Three bills were considered by the 1933 legislature. The Appropriations Committee had under consideration a measure that would provide pensions for disabled public school

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Connecticut Supreme Court of Errors, Harry Foster v. Charles L. Ames et al. (Conn.) 493.

teachers. This measure was passed after being amended to carry a yearly expenditure of not over \$10,000 from State funds. It has not yet received the governor's approval. House Bill 319, proposing a retirement plan for Delaware teachers, failed of passage. House Bill 77, passed and approved, specifies the types of securities in which funds of the Wilmington Teachers' Retirement System may be invested.

Illinois

The House Committee on Education recommended for passage House Bill 1029, increasing the tax rate for support of the state teachers' retirement fund from one-tenth to three-tenths of a mill. Payment of annuities in full is said to depend on the enactment of this measure. Another measure has been just recently introduced, to provide for a slight increase in the payments of teachers to the state retirement fund.

Maine

The 1933 Legislature amended the retirement law affecting teachers in service since July 1, 1935, to place the retirement system on a cash disbursement instead of a reserve basis. In place of duplication of the teacher's annual deposits, the state will double the amount accumulated when the teacher

retires. State funds already accumulated will be placed in the general reserve fund. In addition, according to S. P. 103 - L. D. 211, membership will be compulsory for teachers who are age twenty-five, instead of for teachers who have rendered six years' service.

Maryland

Two measures were before the Senate in 1933, Senate Bill 50, that attempted to repeal the state teacher retirement system, providing for return of contributions previously made by active members, was not brought out of committee. (In Wisconsin, a similar bill was not reported out of committee.) The committee on finance reported unfavorably on Senate Bill 188, that would have prevented persons from enrolling in the state retirement system after June 1, 1933.

Michigan

House Bill 82, referred to the Committee on Education, removes the statutory limitation of \$1,800 a year on the salary paid the secretary of the state teacher retirement system. House Bill 637, recently introduced, would repeal the Michigan Teachers' Retirement Fund Law, and prorate the balance in the fund among annuitants and active members. Senate Bills 232 and 233, also before the Legislature, attempt

to repeal the state teacher retirement law and the retirement law effective for teachers in Detroit. No final action has been taken on these measures.

Minnesota

Minnesota has a new retirement system replacing the one outlined in Chapter 199, Laws of 1915. The new system was inaugurated in 1931. The new laws are found in Chapter 406, Laws of 1931. Membership in the new Fund is optional to those teachers who have taught prior to August 1, 1931, in schools covered by the law, but is mandatory on all new teachers, except those under twenty-five years of age, and on these from the time they have attained that age.

Each teacher who is a member of the Fund pays in annually five per cent of her salary, but not in excess of \$100.00. A separate account is kept with each teacher. The funds so secured are invested by the state, as has been done heretofore. Should a teacher leave the work at any time, she may withdraw her investment, including interest in such amount as the fund may have earned.

When the teacher has been in service thirty years, or has attained the age of fifty-five years, and ceases to teach, she may if she so desires, purchase from the Fund either a life or term annuity in such amount, as under the actuarial

tables adopted by the Board of Trustees, her investment will purchase. The state will then, from its own funds, match such annuity during the lifetime of the teacher. For example, if the teacher's annuity, based on her own investment, either life or term, should be \$300, the state's annual contribution during her lifetime would likewise be \$300, making a total of \$600.

Should the teacher suffer total disability after fifteen years of service, she may use her then investment to purchase an annuity, and the state will match the same during the term of such total disability.

Teachers now in service who are members of the old Fund have two options. Either they may withdraw without interest the full amount paid into the present Fund, or they may have this same amount credited to their individual accounts in the new fund.

An amendment, proposed in 1933 to the newly-established retirement law, would have made retirement compulsory at the age of seventy. The measure did not come to a vote.

Nevada

In 1933 Assembly Bill 63 became a law, amending retirement provisions in this state. The enactment relieved counties from levying the five-mill tax for support of the teacher retirement fund. The State continues to levy the five-mill tax

on the total assessed valuation of the State. Repeal of the county tax means an annual reduction of about \$10,000 in the income of the retirement fund. This reduces the rate of increase of the retirement fund, but is not expected to interfere with payment of allowances.

New Jersey

In accordance with Chapter 212, enacted at a special legislative session in 1932, four million dollars in state funds due the teachers' retirement system were diverted for emergency relief. Trustees of the retirement fund have approved Senate Bill 291, drafted to secure return of the borrowed sum in 1933. This measure, introduced in March, 1933, and referred to the Committee on Judiciary, has not been brought out of committee. Committees of the state Teachers' Association are working toward a satisfactory settlement of the amount due. In 1932 the legislature enacted Chapter 220, whereby salary reductions during the fiscal year beginning July 1, 1932 would not affect retirement deposits or allowances. Chapter 12 of the 1933 Laws provides that members may make payments toward the retirement fund on the basis of full salary, notwithstanding deductions, and receive benefits on the basis of full salary, during the period between July 1, 1933 and July 1, 1934. Chapter 259, enacted in 1932, paid both a salary and a pension at the same time.

New York

In 1933 a measure known as the Fearon Bill, was put into effect. (This measure is similar to Chapter 12, enacted the same year in New Jersey.) By this law, retirement contributions and benefits during the temporary emergency will not be affected by salary donations. Senate Bill 1373, similar to Senate Bill 1437, that failed of enactment in 1932, would discontinue tenure rights of teachers who become eligible for retirement. Their service could be terminated at any time thereafter, on recommendation of the school superintendent or board of superintendents. Persons opposing this bill suggest that to retire all teachers when they attain the age of sixty would prove too heavy a financial burden for the teachers' retirement system, as now organized. This bill, amended to specify age sixty-five, failed.

The 1932 session enacted Chapter 185, providing that a person's membership in the retirement system will cease whenever his service amounts to less than five years in any period of ten consecutive years. Formerly, membership ceased if the employee were continuously absent without pay for a period of more than two years, or if in any five-year period after his last enrollment he served less than two years.

A 1932 proposal was vetoed that would have made retirement benefits available in case of death after giving notice

of intention to retire, but before actual retirement.

Pennsylvania.

The General Assembly in 1931 appropriated \$6,150,000 for the school employees' retirement system. This amount was reduced by \$1,500,000 at the 1932 special Legislative Session. To make up this deficiency, the 1933 Legislature enacted a separate appropriation bill, Senate Bill 1337, carrying the sum of \$1,500,000.

According to Act No. 48, in 1933, each member of the retirement system will decide whether his contribution to the retirement fund shall be on the basis of scheduled salary during the year July 1, 1932 to June 30, 1933, or on reduced salary. The State and local school district's contribution will be based on the same salary on which the employee elects to contribute.

Act No. 92 provides that the expenses of administration shall be paid from the excess interest earnings of the fund. This same Act lowers the rate of contribution by state and local school districts toward State Annuity Reserve Fund No. 2, from two percent annually to one and six-tenths percent annually. This extends by about ten years the completion of payments to this reserve, from which state funds are paid to retiring employees who have rendered prior service.

The governor vetoed a bill that would have amended the retirement law to fix the minimum monthly compensation for certain retired teachers at twenty dollars.

Two measures failed of enactment in 1932; One would have declared a moratorium on all payments to the retirement system by State and local districts from August 1, 1932 to May, 1935, and another measure would have required members of the retirement system to retire at the age of sixty-two.

Rhode Island

In 1933 the Legislature enacted a bill reorganizing the teacher retirement system effective in Newport, and another restoring pension rights to Bristol women teachers who marry. The governor approved both acts.

Virginia

In 1932, a bill, failing to pass, would have created the "Virginia State Teachers' Retirement Fund," under control of the State Board of Education. The fund would have been supported by contributions from the State, and by a percent of the teacher's salary. The Board would have been given the option of contracting with an insurance company or with some other qualified institution to oversee the financial administration of the fund.

Washington

House Bill 185, enacted and approved by the Governor in 1933, permits the State teachers' retirement system to purchase supplies from the fund. As the legislature had not made an appropriation for this expense, recourse to the resources of the fund was necessary. Supplies had previously been furnished by the State.

Wisconsin

This measure (Senate Bill 34) was enacted, whereby farm loans may be made at not more than five percent interest and for not over five years, without requiring annual repayment of part of the principal. The law formerly required amortization payments each year, immediately following loans.

A measure (Senate Bill 197) was passed, declaring real estate used for agricultural purposes, title to which is held by the State Annuity and Investment Board, taxable in the same manner as privately owned real estate. All taxes payable on such property will be paid from money under the control of this board.

Seven other measures pertaining to teacher retirement failed to be enacted. Assembly Bill 671 would repeal the present teacher retirement system and prevent any person from teaching in the public schools after attaining age seventy.

Teacher Retirement Activities During 1934-35⁶

During the period 1934-35 eight states considered bills which would inaugurate for the first time a state-wide retirement system for teachers in each of the following states: Colorado, Delaware, New Hampshire, North Carolina, Oregon, Texas, Utah, and West Virginia. The Utah system was the only one that was enacted and approved, but funds were not appropriated with which to put the law into effect this year.

The Utah system is under the administration of a teacher retirement board consisting of members, as follows: Secretary of State, Superintendent of Public Instruction, Attorney General, three members appointed by the retirement association, and one person appointed by the governor. The retirement board was directed to adopt mortality tables and to establish and maintain, under the direction of competent actuarial advice, a complete system of records and accounting. The retirement funds are to be designated as follows:

1. An annuity fund, ninety percent of contributions

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Anna Laura Force, Teacher Retirement Legislation In 1934-35 to Date. Washington D. C.: N. E. A. pp. 1-8.

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Hard W. Keesecker, Legislative action in 1935 Affecting Education. Washington D. C.: Office of Education, U. S. Department of The Interior, Circular No. 142, 1935, pp. 23-24.

by teachers.

2. A disability fund, ten percent of contributions by teachers.

3. A reserve fund, gifts and receipts from various sources.

4. An accrued liability fund, transfers from annuity and disability funds, etc., under certain conditions.

5. An expense fund, appropriations by State for operation of system.

Each member of the retirement system pays to the annuity fund such proportion of his salary as actuarial data may determine necessary, which shall be credited to the individual accounts of each member; payments to disability fund go into the common fund.

Any teacher who has served for thirty years (twenty in the state) or who is sixty years of age, if a woman, and sixty-five, if a man, may retire. Teachers' benefits vary according to length of service, salary, etc.

Retirement Committees Established

North Carolina, Oregon, and West Virginia authorized or created special committees to study teacher retirement provisions and to submit recommendations at the next legislative session. The Tennessee Education Commission recently

recommended that the state Board of Education be given authority to establish and administer a teacher retirement system.

Attempts to Remove Constitutional Restrictions

In Missouri and Texas constitutional provisions hinder the adoption of adequate teacher retirement laws. Missouri voters defeated in 1934 an amendment that would have permitted expenditure of public funds for retirement benefits. The 1935 legislature rejected a proposal to re-submit the amendment during this same year. A resolution to submit a similar amendment to Texas voters is pending in the state legislature.

Reorganization of Present State-wide Laws

Plans were in progress for the complete revision of the state-wide teacher retirement laws effective in Arizona, California, Illinois, and Washington. The Arizona Education Association has given publicity to a plan which might be introduced, should the state teachers' pension law be repealed. (A proposed repeal of this law had been defeated in 1933 by a narrow margin.). The Illinois State Teachers' Association also prepared, but did not introduce, a new retirement plan applying to teachers outside of Chicago and Peoria. A new law sponsored by the Washington State Education Association

was retained in committee, in order not to jeopardize enactments of school revenue proposals.

Amendments or Additions to State-Wide Laws

During the period of 1934-35 amendments or additions are summarized pertaining to the following phases of teacher retirement: (1) Scope of Retirement Provisions. (2) Contributions from Public Funds. (3) Deposits by teachers. (4) Conditions for Retirement. (5) Retirement Allowances.

1. Scope of Retirement Provisions:

Illinois would include the State Superintendent of Schools, his assistants, and employees under provisions of the law covering teachers in state institutions.

Maine would authorize the Commissioner of Education to pension dependent retired teachers, not in the fund, who have reached the age of fifty.

Massachusetts authorized the payment of retirement allowances to janitors who are physically incapacitated. Pensions were proposed for teachers who retired prior to 1914 in Massachusetts.

In Pennsylvania pensions were proposed for public school employees who retired prior to 1919. Extension of the time in which to elect membership to December 30, 1936 in the state teachers' retirement system was approved in Indiana. A similar proposal was made in Pennsylvania, and also in Connecticut.

Washington State considered permitting officers in higher institutions, under certain conditions to assist faculty members and employees in financing old-age annuities.

2. Contributions from Public Funds:

Restoration of the Connecticut teacher retirement system to the reserve basis (suspended in 1933) was strongly advocated. Additional state support was proposed in Illinois (state levy increased from three-twentieths to one-fifth of a mill), Michigan (\$500,000 and \$250,000 for fiscal years ending in 1936 and 1937, respectively), Minnesota (fifteen-hundredths mill limitation was repealed and the maximum annual contribution from the State fixed at \$250,000), and Montana (\$50,000 from the state). The general appropriations bill presented to the 1935 New Jersey legislature included an item approximating \$4,300,000 as the State's contribution to the teachers' pension and annuity fund.

3. Deposits by teachers:

Increased contributions for retirement purposes would be required of teachers in Illinois public schools, and state institutions.

Ohio considered providing for repayment of amounts previously withdrawn by teachers.

Massachusetts rejected a bill that would have permitted teachers to borrow from their annuity deposits.

4. Conditions for Retirement:

A proposed bill in Michigan would require only the major part instead of the entire part of the last five years of service for retirement purposes to have been rendered within the state.

New York considered accepting twenty-five years total service, without regard to age, as qualification for retirement. The age for voluntary retirement in Pennsylvania would be lowered from sixty-two to sixty.

5. Retirement Allowances:

Increased benefits were proposed in California (six hundred dollars instead of five hundred dollars per annum), and in Illinois (teachers of age seventy with twenty-five years of service would be granted six hundred dollars yearly, upon making an additional payment).

In New York a proposal to fix \$2000 as a maximum pension, except for certain teachers in New York City, was defeated.

Summary

The foregoing pages of Chapter V present a summary of state retirement legislation, or attempted legislation from 1929 to 1936.

CHAPTER VI

SUMMARY CONCLUSIONS AND RECOMMENDATIONS

Summary

In order that the reader's memory may be freshened with respect to the significant facts disclosed in this study, a summary of the most important ones are recalled.

1. Twenty-two states of the United States have state-wide teachers' pension systems in operation.
2. The principal features which seem to be common to the retirement laws of the state systems are: the joint contributory plan of financing the fund, compulsory membership for new teachers and optional membership for old teachers, service requirements of from thirty to forty years, disability benefits, privilege of withdrawal of deposits.
3. Arizona and Rhode Island are the only state pension systems that pay all of the cost of retirement without any contributions from teachers.

There is only one instance in which a state-wide system has been abandoned after having been in operation, without being replaced by an improved system. Idaho abandoned its state teacher retirement system in 1929, that had been in

operation since 1921. At the present time Idaho has no state system of teacher retirement.

5. No southern state has a retirement system that is state-wide in operation, but there are a few local systems, found mainly in the larger cities of the southern group.

6. There is a constant tendency toward the absorption of local systems by state-wide systems; however, some of the larger cities of the country still find it expedient to maintain independent systems.

7. Membership in the retirement system is compulsory in three states--Maryland, Ohio, and Wisconsin, but teachers are in some cases given an opportunity to secure exemption.

8. Seventeen states require a certain number of years of teaching service in order for members to receive benefits. The number of years required ranges from ten years in Pennsylvania to forty years in Indiana. The median number of years required is approximately thirty.

9. Minimum disability allowances range from \$200 in Vermont to \$750 in North Dakota. The foregoing amounts are the yearly benefit payments.

10. A teacher's deposits are available in full following resignation or dismissal in thirteen of the state retirement systems.

11. Eleven state systems pay the deceased members estate or beneficiary the sum of his deposits made in the system, with

interest accumulation earned from investment of the deposits.

12. Flat benefits, independent of salary, are provided in Arizona, California, Indiana, Illinois, Montana, Nevada, and Washington. The general practice of the other systems is to provide an annuity from the accumulated deposits of the teacher, and a pension from the accumulated payments of the state.

13. A system of teachers' pensions or retirement allowances may be state-wide by legislative enactment unless the state constitution prohibits such legislation. Missouri and Texas have been attempting to remove constitutional restrictions in order to establish state-wide retirement systems.

14. A school board cannot compel contributions to a pension fund unless a legislative enactment grants the power to the board to set up a fund and to require teachers to pay a certain percent of their salary into it.

15. Compulsory contribution laws may not operate retrospectively. Such statutes cannot apply to contracts entered into before enactment of the compulsory contribution laws.

16. Pension or retirement laws partly complied with may be repealed, but, in most cases, teachers would be protected against loss of deposits in the fund by statutes that stipulate that the deposits of teachers are returnable upon their ceasing to be members of the fund.

contractual rights nor does it provide a reserve fund.

17. Contribution to pension funds by a teacher does not confer a right to employment.

18. A state-wide teachers' retirement system was established in New Mexico in 1933, but it has not yet been put into operation. A state-wide system was established in Utah in 1935, but it is not operative at present.

19. Eight states considered bills, which would inaugurate for the first time a state-wide system of retirement in each, during the period from 1934 to 1935: Colorado, Delaware, New Hampshire, North Carolina, Oregon, Texas, Utah, and West Virginia. None was enacted except that for Utah.

20. Minnesota enacted laws in 1931 establishing a new system, repealing and replacing the laws providing for the older system. At the present time plans are in progress for the complete revision of the state-wide teacher retirement laws effective in Arizona, California, Illinois, and Washington.

Those who are unfamiliar with the great mass of teacher retirement literature may not easily understand that a free, or non-contributory, plan is likely to result in less general satisfaction than a contributory plan. Furthermore, those who have followed the history of the breakdown of one system after another practically agree that the free plan is more uncertain than a contributory plan. The free plan confers no contractual rights nor does it provide a reserve fund. It is

largely continued at the discretion of the employer. Students of the subject have generally agreed that the contributory plan is more economical, efficient, and secure than other plans now in use. Under the contributory plan the employees' contributions provide a cumulative fund of which they cannot be deprived. Such a system or plan, while intended primarily as a protection against old age and disability, furnishes also an opportunity for saving. It is apparently impossible to finance a free system in any other way than by annual appropriations. This system places the teacher at the mercy of the legislature, and attempts of the legislature to economize may endanger the security of the retirement system. A contributory system lends itself to a method of financing that is economical for the State and secure for the teacher.

Lack of initiative and interest on the part of a large percent of teachers has been the greatest slowing factor to the movement for nation-wide adequate teacher retirement laws in the past. A sound teacher retirement law serves two important purposes: First, it protects the public from teachers rendered less competent by advanced age or disability; and, secondly, it adds dignity to the work and position of the teacher. A modern retirement system is not charity, but simple justice. The work of the teacher is basic to economic and social welfare; consequently, every effort should be made to attract a high type of worker to the profession to encourage a long period

of happy and useful service, and to provide an honorable way out of the profession when that service is concluded. A retirement system is one of the most effective agencies available for obtaining these purposes. Teacher retirement legislation has been advocated in the belief that it would benefit both the teacher and the pupil. If teachers are forced to keep on teaching when they reach the retirement age, in order to secure an income, the boys and girls in school are the real sufferers.

Retirement funds have done much to improve the quality of teaching and to make it a profession; because retirement funds make it possible for a teacher whose efficiency has been lowered by advanced age, and by a lack of touch with modern methods, to step aside for one with more vigor.

The Wisconsin system is possibly too conservative in not admitting teachers until they are twenty-five years of age and too generous in allowing retirement at age fifty, and it is impossible for the layman to tell from its regulations what the state's contribution and the consequent provision for retirement amount to. On the other hand, the teacher's contribution is reasonable, the state's contribution is made concurrently, there is a disability provision after five years of service, and, in case of death before retirement, the teacher's estate receives the state's contribution as well as his own, although in case of withdrawal he receives only his own accumulations.

The systems of Connecticut, Indiana, Massachusetts, and Ohio occupy a middle ground. They are all compulsory, all have reasonable contributions from the teacher, all have retirement optional from age sixty to sixty-nine and compulsory at age seventy, and all return the teacher's accumulations at withdrawal or death. All allow disability retirement after ten years of service, except Massachusetts, which requires twenty. All provide allowances from the state equal to those provided by the teacher, except Indiana, where the state provides four-sevenths of the total. Massachusetts has a theoretical minimum allowance of \$1,000, Connecticut and Indiana of \$700; while Ohio appears to have no minimum. Ohio's retirement deposits are concurrent with those of the teacher, Indiana's are biennial; Connecticut's provide a reserve at the time of retirement; Massachusetts depends upon the precarious arrangement of making appropriations year by year to pay the pensions of teachers who have already retired.

The systems of Maryland, New Jersey, New York, and Pennsylvania are much alike. Their appropriations are concurrent with those of the teachers except in Pennsylvania, where they are semiannual. On withdrawal, all return the teacher's accumulations, Pennsylvania only in the form of an annuity. In case of death, all return the teacher's accumulations, with the addition in Maryland of life insurance equal to half of

a year's salary. Retirement in Maryland is at age sixty or thereafter, or after five years of service in case of disability. In both New Jersey and Pennsylvania, retirement is at the age of sixty-two or after ten years of service in case of disability. All of these four systems unfortunately base their allowances upon guesses at future salaries; New Jersey on the total of all salaries, Maryland and New York on a number of years before retirement, Pennsylvania on the final salary. New York has, in addition, the handicaps of permitting retirement in case of disability only after fifteen years of service, and retaining the old-fashioned, expensive, and otherwise undesirable provision of retirement after thirty-five years of service.

Salary restorations, increased school budgets, and a return of special services to the curriculum, recently reported by a number of school units, indicate better times ahead for education in general and for teacher retirement in particular. If teachers have followed anxiously the effects of decreased revenues on school services and personell during 1930 to 1936, they have watched quite as anxiously, the effect of the unusual economic conditions on the operations of established retirement systems. Proposals for reducing taxes, made in state legislatures and local councils, have been, and to some extent still are threatening the

the continuance and stability of existing retirement systems. At the suggestion of the National Council of Teachers' Retirement Systems, and the committee on retirement allowances, an exploratory study of some of the effects of the depression on teacher retirement systems was undertaken toward the close of 1933 by the research division of the National Education Association. They found that decreased school resources, or attempts to revise school finance systems delayed the introduction of new retirement legislation, and retarded efforts to revise unsatisfactory systems.

At the present time legislative appropriations, no matter how necessary or reasonable, must undergo close scrutiny. Keeping the public educated concerning the benefits of retirement systems is an omnipresent problem, and one which is more difficult in years when there are unusual demands on public resources for relief and welfare work. Often the public doesn't understand why a large retirement reserve should be maintained or further increased.

Conclusions

The data examined in the foregoing pages justify the following conclusions:

1. The problem of retirement benefits is one of increasing concern to the teaching profession.

2. Establishment of local teacher retirement systems is likely to diminish in the future, and is likely to be confined to those states where the adoption of state-wide retirement laws is overdue.

3. The state is the best agency for providing economy and security with regard to the retirement of teachers. This belief is founded both upon theory and practice. The state offers first, opportunity for teacher exchanges between districts and cities without the loss of retirement benefits and second, it enables more efficient and economical administration of the system as a whole throughout the state. Exception to these general statements may exist in the larger cities.

4. There are three methods of financing retirement funds, in the United States; namely, (1) A free pension to teachers by the state, (2) A retirement fund built up by teacher contributions without any contributions by the state, and (3) A contributory system whereby both the state and the teachers contribute to the retirement fund.

The plan whereby both the state and teachers within the state that are members of the system, contribute to the fund

is the best and most satisfactory plan of financing teacher retirement. Such a plan is more economical for the state, and more secure for the teacher.

5. The sums deposited in the retirement fund by the teachers, and those deposited by the public, during the period of service, should be approximately equal.

6. Membership in the retirement system should be compulsory for teachers entering the service after the enactment of the law; and optional for teachers already in the service, at the time of enactment.

7. Retirement ages and rules should be defined and administered so as to retain teachers during efficient service, and provide for their retirement when old age or disability makes satisfactory service no longer possible.

8. The retirement allowance should be sufficient to enable the retiring teacher to live in reasonable comfort, thereby removing the temptation to remain in the classroom beyond the period of efficient service.

9. A retirement allowance should be provided for all disabled teachers after a reasonable period of service.

10. Teachers leaving the service before the regular retirement age should retain rights to all moneys accumulated in their accounts. Teachers accumulated deposits should be returnable upon withdrawal from teaching services.

11. In case of death of a teacher prior to retirement, the

teacher's and also the state's accumulated deposits should be paid to the deceased's beneficiaries, or to the deceased's estate.

12. Although the representation of teachers upon administrative boards of retirement systems is continued, it has decreased in extent.

13. Such uncertain sources of funds for financing teacher retirement as gifts, legacies, excise taxes, and license fees have vanished almost entirely, and the public's contributions to the fund are raised through taxation.

14. The actuarial reserve plan of financing is well established among the state-wide systems, together with provision for periodic actuarial investigation.

15. In general, amounts of the retirement allowance have been gradually increased; however, owing to the operations of restrictions and limits, they do not bear, on the average, a satisfactory relation to the entire pay roll. Annuitants, generally speaking, in most of the states have a hard struggle to live on their retirement allowances.

16. The state-wide system that probably includes the most features as recommended by the National Education Association is that of Vermont. It provides a reasonable contribution from the teacher which is duplicated by the state. It allows retirement at age sixty for women, and at age sixty-five for men. It allows retirement in case of disability after six years of service,

and in case of either withdrawal or death before retirement, the teacher or his estate has the benefit of the state's contribution as well as his own.

17. The constitutional validity of teachers' pension and retirement laws is well established. Unless restrained by some constitutional provision, the state legislature may grant pensions to retired teachers; however, where the constitution prohibits the legislature from granting extra compensation to a public officer or servant, the legislature cannot grant pensions to teachers.

18. The legislature of a state may exercise broad discretion in providing funds for teachers' pensions. It may appropriate funds directly from the state treasury, it may require local districts to make contributions to the state pension fund, or it may apply any fund obtainable for general educational purposes.

19. In the absence of statutory authority to do so a school board cannot deduct portions of a teacher's salary for the purpose of creating a pension fund.

20. Pension legislation fully complied with on the part of the teacher constitutes a contract between the teacher and the state which cannot be modified by subsequent legislation.

21. It is probable that the future tendency in the field of teacher retirement will be more or less, similar to the present tendency in the field of public education, in which

the state tends to maintain certain minimum uniform standards, at the same time allowing local units to introduce higher standards into their schools. In this way state and local systems may stimulate each other toward greater progress.

22. No state-wide teacher retirement system is ideal in all its provisions. Almost every one is in a period of transition, which means, in effect, an attempt to bridge a gap between an older and somewhat unsound system to a sound system that completely serves the present needs of teachers.

Despite the fact that no public school teachers' retirement system can be regarded as ideal, and that every system now in operation imposes compromises rendered advisable or unavoidable by the necessity of adjusting ideal provisions to personal and economic conditions, the fact should not be obscured that in the past twenty-five years state-wide teacher retirement systems have been constantly becoming more sound. In no other calling, or in respect to no other professional group, is the development of adequate provision for retirement so heartily to be commended.

23. In the last analysis the benefits of a teacher retirement system should accrue primarily to the boys and girls attending the public schools. They are the ones who suffer most when teachers are retained in service after old age, disability, or disease impair the effectiveness of their teaching.

Recommendations

In view of the foregoing conclusions the following recommendations with respect to the subject matter of this dissertation are suggested:

1. That some form of legislation insuring retirement and disability protection to the teacher be extended to those states where such legislation does not now exist.
2. That uniform provisions be made for cooperative or reciprocal relations among teacher retirement systems in order that a teacher moving from one state to another may not lose his deposits previously made in a retirement fund.
3. That the retirement allowances being received at present by annuitants in the various states are too small. Steps should be taken at once to uniformly raise the retirement allowances to sums more adequately meeting annuitants' requirements.
4. That most of the states require too long a period of service before allowing disability benefits to members. This service requirement should be lessened.
5. That a definite age be set, in each system, beyond which no teacher may teach in the public schools.
6. That more uniformity should prevail among the laws of the states with respect to the five common fundamental retirement principles outlined in this study.

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